IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - -

IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION	:	HON. DAN A. POLSTER
APPLIES TO ALL CASES	:	NO. 1:17-MD-2804

- HIGHLY CONFIDENTIAL -

SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

- - -

April 2, 2019

- - -

Videotaped deposition of SERGIO TEJEDA taken pursuant to notice, was held at the offices of Locke Lord, LLP, 200 Vesey Street, New York, New York, beginning at 9:01 a.m., on the above date, before Michelle L. Gray, a Registered Professional Reporter, Certified Shorthand Reporter, Certified Realtime Reporter, and Notary Public.

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- - -

I N D E X

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SERGIO TEJEDA

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None.

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None.

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None.

Questions Marked
PAGE LINE
None.

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THE VIDEOGRAPHER: We're now on the record. My name is David Lane, videographer for Golkow Litigation Services.

Today's date is April 2nd, 2019. Our time is 9:01 a.m.

This deposition is taking place in New York, New York, in the matter of National Prescription Opiate Litigation.

Our deponent today is Sergio Tejeda.

Counsel will be noted on the stenographic record.

Our court reporter today is Michelle Gray and will now swear in our witness.

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... SERGIO TEJEDA, having been first duly sworn, was examined and testified as follows:

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THE VIDEOGRAPHER: Please begin.

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- - -

EXAMINATION

- - -

BY MR. MIGLIORI:

Q. Good morning.

A. Good morning.

Q. My name is Don Migliori. I represent some of the plaintiffs in this litigation, and I'll be asking you some questions this morning.

My voice is a little weak today. If you can't understand my question or can't hear it, I'll ask you to let me know. Okay?

A. Okay.

Q. Have you ever had your deposition taken before?

A. No.

Q. So I'll be asking you some questions. The court reporter will be taking down your answers.

A. Okay.

Q. I ask that you wait for my question to be complete before you answer. Also, to give a little bit of time so that your counsel can make an objection, if necessary.

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I'll ask that also your answers be verbal; that is, gestures, or sounds are hard to type, so if you can say "yes" or "no" as appropriate, I'd appreciate it. And if you have any questions or want to take a break, just let me know and we'll do so.

Do you have any questions before we get started?

A. No.

Q. Okay. If you answer my question, I'm going to assume that you've understood it. Is that understandable?

A. Yes, it is.

Q. Okay. Could you tell the jury your name and your address?

A. My name is Sergio Tejeda. My address is 93 Edgewood Road, Port Washington, New York 11050.

Q. I'm going to ask you to keep your voice up too. We're both struggling. Just so the court reporter can hear you. Okay?

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A. Okay.

Q. What's your current position and employer?

A. I'm the director of regulatory affairs for Henry Schein Incorporated.

Q. And how long have you held that position?

A. About four years with the same title.

Q. Going back to 2015?

A. Yes.

Q. And what was the title before that?

A. Director of regulatory for North America.

Q. How long did you hold that title?

A. About three years.

Q. Going back to 2012?

A. More or less.

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Q. Okay. What, if anything, was a change in your responsibilities between those two positions?
A. I am focused on domestic compliance at this point.
Q. Okay. We're going to get into some of the specifics of all of that. Before we get started with that, when did you first learn about this deposition?
A. When did I first learn? Sometime last year.
Q. And did you meet with counsel in preparation for this deposition?
A. Yes.
Q. Do you recall the first time that you met with counsel?
A. I think it was late February.
Q. February?
A. Late February.
Q. And who did you meet with?
A. I met with the local team

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and our inhouse attorneys.
Q. Did you meet in Melville, or did you meet at the -- or did you meet here in the office?
A. First meeting was here.
Q. Do you recall how long you met?
A. Maybe four hours.
Q. Did you review documents at that time?
A. Yeah, we reviewed some documents.
Q. Did you review any testimony of other witnesses in this case?
A. No.
Q. Have you ever reviewed any testimony of other witnesses in this case?
A. No.
Q. The documents that you reviewed in that first meeting, were they documents that you brought with you to the meeting or were they provided to you by counsel?

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A. They were provided by counsel.
Q. Did you meet again with counsel in preparation for today?
A. Yes.
Q. How many more times?
A. Three.
Q. And were those meetings also here or were they in other places?
A. In Melville once, we had teleconference once, and here once.
Q. When was the meeting in Melville?
A. So I don't remember the exact date, sorry.
Q. Was it the second meeting you had?
A. It was the second meeting, yes.
Q. Do you know how long that meeting last -- lasted?
A. About six, seven hours.
Q. Did you review documents at that meeting?

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A. Yes.
Q. Were they documents that you had in Melville? That is, were they kept -- were you the -- did you bring those documents with you to the meeting?
A. I brought some documents.
Q. And do you recall what kinds of documents you brought with you, yourself, to the meeting?
A. Material that we had reviewed the first meeting.
Q. Okay. Anything that you got out of your own files that had not been provided to you by counsel?
A. No.
Q. Were you asked to gather any documents that weren't part of what the counsel showed you?
A. No.
Q. Did you prepare -- at any point were you asked to set aside documents in your own control in order to comply with any discovery requests in this case?

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A. Do you mean prior to the preparation?
Q. Yeah.
A. Yes.
Q. And did you provide all those documents that you had in your control?
A. Yeah.
Q. Relative to this case?
A. Yes.
Q. And since that initial production, did you go back and get any more documents or look for more documents?
A. I don't think so.
Q. Did you review any transactional records of controlled substances for your testimony in this case?
A. Not for my testimony. For -- as a matter of my -- the nature of my work, I do.
Q. Okay. And I'm not talking about generally in the course of your own

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business. I'm asking relative to the issues in this case, relative to Ohio or Summit County, Ohio. Did you review any transactional records in preparation for your testimony?
A. Not transactional records. We produced some reports.
Q. Were you helpful in producing those reports?
A. It was a collab -- an effort between my team and the verifications department.
MR. McDONALD: He said collaborative effort.
THE WITNESS: Sorry.
BY MR. MIGLIORI:
Q. Which reports did your team and the verifications team gather together?
A. Sales reports. Any due diligence that we may have.
Q. What about pended order reports? Did you review anything like that?

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A. No.
Q. Did you help produce any reports relevant to canceled orders?
A. My team did.
Q. What is a canceled order?
A. Canceled order is an order that has been placed and either the customer or Henry Schein, somebody at Henry Schein has canceled.
Q. Okay. When it's canceled by Henry Schein, what are their bases to cancel an order?
A. Many different types of reasons.
Q. Is there a canceled order for an order that's considered suspicious?
A. So an order can be deemed suspicious and can be canceled by the customer.
Q. Okay. My question is a little more particular to these reports that you gathered. Did you prepare a canceled order report with the

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verifications team?
A. No.
Q. Any other reports that you or your team prepared for this litigation, to your knowledge?
A. Training. We produced SOPs.
Q. What kind of training documents did you gather?
A. Training materials, some training records.
Q. And describe the training records in particular. Are they the actual manuals for training, are they scores or grades for success in training? What kind of records did you pull together?
A. May have been just pieces of PowerPoint presentations, or forms that they were completed after a training has completed. The employees record their name and sign.
Q. Were any of these employees sales employees?
A. No. It was mainly

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verifications and/or regulatory.
Q. Verifications and what?
A. And/or regulatory.
Q. All right. Do you know when the training records started, what years they started from what you gathered?
A. I don't remember.
Q. You said standard operating procedures, were you part of the collection of the SOPs, or your team?
A. They were collected by verifications, and some were collected by my team.
Q. Did you review those in preparation for today at any point?
A. I remember looking at one or two.
Q. Okay. Were the same people at the Melville meeting that were at the initial meeting here at Locke Lord?
A. No.
Q. Who else was there?
A. Somebody was missing, and I apologize if I don't remember his name.

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I think it was somebody from the Locke Lord team.
Q. Okay. Did you ever speak with Shaun Abreu about your testimony?
A. About?
Q. About this litigation?
A. So about being deposed or the --
Q. Any aspect of this --
A. -- in particular from --
Q. Any aspect of this litigation?
A. The only thing has been that we know that we both were deposed or being deposed.
Q. Okay. Did you ask him about his deposition?
A. No.
Q. Did you ask anybody about testimony they've given in this case?
A. No.
Q. Did you talk to Mr. Peacock?
A. Every day.
Q. Did you talk about this

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litigation?
A. Just on the matter that I was being deposed.
Q. Okay. You didn't talk about the substance of his testimony?
A. No.
Q. Did you talk to Tina -- let me get this -- Tina Steffanie-Oak at any point about this litigation?
A. I haven't talked to Tina in months.
Q. Okay. Have you talked to her since she left the company?
A. Yes.
Q. Did you talk to her about this litigation?
A. Only when -- last year when we were talking about her being deposed.
Q. Okay. And you haven't talked to her since her deposition about her testimony?
A. No, I haven't.
Q. Okay. When you had your teleconference, did you continue to

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review documents in preparation for today?
A. Yes.
Q. Were there any new documents presented to you?
A. I think so.
Q. Any new testimony described to you at any point?
A. No testimony.
Q. Were the same people involved in that meeting?
A. It was -- yes.
Q. Okay. That is, counsel inhouse from Henry Schein and counsel from Locke Lord?
A. Yes, that's correct.
Q. Was it Mr. McDonald or was it Mr. Jones or both?
A. No, it was Mr. Jones and also Lauren, I don't remember her last name.
Q. That's fine. It's not a quiz.
How long did the

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teleconference last?
A. Teleconference last six hours.
Q. And during that six hours, no testimony was described to you?
A. No, no testimony.
Q. And that was the third of your four meetings?
A. Yes, sir.
Q. And then you had one more meeting here at this law office?
A. Yes, sir.
Q. And was that yesterday?
A. Yesterday.
Q. And how long was that meeting?
A. It started at around nine and finished around four.
Q. Okay. So about seven hours?
A. About seven hours.
Q. So if my math is correct, you spent somewhere between 20 and 25 hours preparing for today?
A. Between that.

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Q. In the meeting yesterday, did you see any documents that were new that you hadn't seen before?
A. I think I saw a couple, yes.
Q. And the documents that you're looking at generally, were they documents relating to suspicious order monitoring systems?
A. The process, yes, and relating to the suspicious order monitoring.
Q. Did you review any documents specific to Ohio or Summit County, Ohio?
A. No.
Q. Did you review any answers to interrogatories that Henry Schein prepared in this -- in this litigation?
A. I'm sorry, say that again.
Q. Did you review any written responses, sworn statements, that your company prepared for this litigation?
A. No.
Q. Do you know whether or not a single suspicious order has ever been

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reported in the state of Ohio or in some -- for Summit County transactions ever?
A. I don't know.
Q. Do you know whether or not any pended orders were ever discovered for Summit County, Ohio, or anywhere within the state of Ohio?
MR. McDONALD: Object to the form.
THE WITNESS: What?
MR. McDONALD: Go ahead. Answer if you know.
THE WITNESS: Okay. Sorry, by knowing, you mean a specific or -- because we know that we were doing it -- we were more like -- more than likely reported to Ohio.
BY MR. MIGLIORI:
Q. Well, I'm not asking about reporting to Ohio, the state of Ohio, I'll get to that separately. Right now I'm talking about, and I'll be clear I guess, to the DEA field office.

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Did you report any pended orders to the DEA field office for Summit County or within the state of Ohio at any point while you were at Henry Schein to your knowledge?
A. I don't remember.
Q. And in the 25 hours that you prepared for today, you didn't do anything to familiarize yourself with Summit County, Ohio, the county where Henry Schein has been sued?
A. We really didn't talk about --
MR. McDONALD: Don't -- don't disclose the specifics of what we discussed. Just answer his question.
BY MR. MIGLIORI:
Q. I'm just asking whether you familiarized yourself with anything from Summit County, Ohio, relevant to suspicious orders, pended orders, any activity, transactional activity that would rise to the level of a pended or

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suspicious order?
A. No.
Q. I'm going to hand you documents throughout the day. It's a tough reach but...
(Document marked for identification as Exhibit Henry Schein-Tejeda-1.)
BY MR. MIGLIORI:
Q. This is today's notice of deposition for the record.
And you have seen this, haven't you?
A. Yes.
Q. This tells you to come here today. Did you bring any documents with you today?
A. Not related to the -- to this.
Q. No? Okay. I've been provided with what appears to be a curriculum vitae. I'm not sure when this was prepared.
(Document marked for

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identification as Exhibit Henry Schein-Tejeda-2.)
BY MR. MIGLIORI:
Q. If you can take a couple seconds. I marked it as Exhibit 2.
Could you look at this and let me know when you think this may have been prepared?
A. I think this was prepared sometime last year.
Q. For what purpose?
A. I wanted to update it, to update my resumé.
Q. Okay. Was it -- were you asked to prepare this by counsel?
A. No.
Q. Do you recall when you provided it to counsel?
A. I don't.
Q. Did you have any help in preparing this document?
A. No. Not unless my wife read it and give me comments.
Q. Those are the best critics.

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A. Yes.
Q. Let's start at the last page.
A. Okay.
Q. It says that you attended law school at the Universidad Raphael Landívar in Guatemala, Central America.
Is that correct?
A. Yes, sir.
Q. And it has the date of 1986. Did you -- what kind of degree did you get in 1986?
A. So, I close curriculum, I didn't graduate.
Q. Okay. Was that a school -- was that a full law school program to become a lawyer or was there another program within the university that you were attending?
A. It was a full law school to become a lawyer.
Q. Okay. So you did not complete law school?
A. No.

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Q. After law school it lists as your next educational background, Adelphi University on Long Island, New York, bachelor of arts degree in 1996.
A. Yes.
Q. Is that a degree that you obtained?
A. Yes, sir.
Q. And that's in -- it was in criminal justice?
A. Yes, sir.
Q. When did you move from Guatemala to the United States?
A. 1989.
Q. From 1986 to 1999, it has, on the third page, different professional experiences. It looks like at least from '86 to '88, it says that you were a junior associate. What does that mean? At the Barrios and Comparini Law Firm in Guatemala.
A. Yes. So that means that I was in the senior stages of my law school education, and they started to give me

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work of -- more as an attorney as opposed to a paralegal.
Q. But you were not a lawyer, correct?
A. No, I wasn't.
Q. Before that, from 1980 to 1988 or during that same period of time you are also listed as a paralegal, correct?
A. Yes.
Q. At any point during that professional experience, did you have any role or relationship to any kind of pharmaceutical litigation?
A. Not litigation. My role was more, on that end, drug registration, you know, intellectual property, things like that.
Q. You left Barrios and Comparini and went to Tres Torres, S.A., in Guatemala from '88 to '90. It says collections manager. Is that what it sounds like? Did you work for a firm that did collections?

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A. So this was a software company, and they hired me to run their collections department, yes.
Q. So, again, you were not a lawyer; you were either a paralegal or a manager of sorts, correct?
A. A manager.
Q. All right. So in 1990, it's the first entry we have here for Henry Schein Inc., Port Washington, New York. What caused you to move to Port Washington, New York?
A. My wife is a dentist. And she was offered a program in NYU that was to make us take the transition to move to the United States.
Q. Okay. And from 1990 to 1993, it says that you were a customer returns representative. Tell me about that position at Henry Schein.
A. So this was a position where I received and processed returns from Henry Schein customers.
Q. And what kind of products

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are we talking about?
A. Drugs, medical devices, supplies, paper goods, vitamins.
Q. And in 1993 you moved from a customer returns representative to a customer returns department return-to-vendor coordinator. You did that for two years. What change in responsibilities did you have at Henry Schein?
A. Since I was working with our suppliers and business partners in coordinating returns of product to -- to them based on their policies and our needs.
Q. I assume at this point through 1995 -- from 1990 to 1995 you had no responsibilities relative to controlled substances, correct?
A. As far as processing the returns and processing paperwork to return controlled substances, or dispose of it, that was my role with controlled substances.

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Q. You had no issue -- no responsibilities relative to compliance issues or training or oversight with regulatory affairs, correct?
A. No.
Q. No you didn't or --
A. I didn't. I didn't.
Q. All right. You started in 1995 as a customer -- supervisor, customer returns department. So did you just work your way up to the top of the chain in customer returns?
A. Yes, I guess you can say that.
Q. So at this point now, instead of being a representative, you're now managing 40 associates and coordinators?
A. Yes, sir.
Q. And again, to the extent it related to controlled substances, it would just be the return and processing of returned controlled substances from Henry Schein customers, correct?

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A. So at that point I started to get more involved in policy issues, SOPs, working with the verifications teams, understanding the controlled substance operations, and obviously because of the returns, what to do with the inventories, what to do with special outgoings and things like that.
Q. Okay. How did you learn about all those things?
A. So my manager was also a manager of the person that was doing controlled substance monitoring, I can say.
Q. Who was that?
A. Janet Nalbeaiko. Or I'm sorry, my manager or the person that was doing -- that was focusing on verifications?
Q. Well, I was referring to the person that you were referring to. So I think you said that you learned from somebody who was your manager. I was trying to figure out who that person was.

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A. So my manager, his name was Bob Carlson. He was also the manager for Janet, who was more involved in the controlled substance management.
Q. Okay. And how did they teach you about issues relating to policies, standard operating procedures, and controlled substance compliance?
A. So work -- on the work education, and I also started to become responsible of the processes and procedures for the department.
Q. How? How did you learn about it? Who taught you? Did you have training materials?
A. Do I have training materials?
Q. Were you provided training materials?
A. I don't remember.
Q. Did you go to any classes to learn about the Controlled Substances Act?
MR. McDONALD: You are

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talking about at that point in time?
MR. MIGLIORI: Yeah.
BY MR. MIGLIORI:
Q. As you're starting to learn about policies and standard operating procedures.
A. I don't remember.
Q. Is it fair to say that whatever you were starting to learn about DEA compliance, you were learning on the job?
A. And -- yes, and by working with -- with Janet and Rob -- Bob. Yes.
Q. At this point do you recall doing any returns or issues relating to compliance with returns for Schedule II drugs?
A. When you say doing any returns, what do you mean?
Q. We're still talking about a period of time when you're in the returns department, 1995 to 1998. You were the supervisor of customer returns. And I'm

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asking you, in that role did you have any direct involvement with Schedule II controlled substances, other than the returns being processed from your customers?
A. Other than the returns being processed from our customers, the security of the drugs, making sure that they went to the proper inventory, that they were recorded appropriately, and that if we needed to return anything to the supplier, we were going to do it according to our processes and their policies. Some, maybe investigations on inventories, things like that.
Q. So of all the different products that were coming into the returns department from 1995 to 1998, what percentage were controlled substances?
A. Very little.
Q. Is it fair to say that most of your work in the returns department related to medical devices and other

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non-controlled-substance products sold by Henry Schein?
A. You mean as far as -- yes.
Q. In 1998, you moved over to a position called regulatory affairs specialist/recall coordinators.
Tell me about that position. What kind of work were you doing there?
A. So that's where I started to do more -- I became part of the, at that point, the regulatory affairs team. And my first assignment was to be regulatory coordinator. I also worked with licensure issues, with quality complaints, with adverse events.
Q. And again, it's fair to say that the recalls that you're talking about during this period of time, only a small percentage of those related to controlled substances, correct?
A. Yes.
Q. And were there any recalls of controlled substances from '98 to 2002 that you can recall?

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A. Wow. I can't recall any specific.
Q. Okay. If you go to Page 2, you moved over to just supervisor of regulatory affairs. How did your job responsibilities change at that point?
A. Now I was responsible to managing the team and to -- on a day-to-day workload, as well as special projects, and getting more into developing, bonuses, SOPs.
Q. Okay. And the work here is still across all product lines at Henry Schein, correct?
A. Yes.
Q. And a small percentage of that product line that you oversaw was controlled substances, correct?
A. As far as my responsibilities it was more than what it used to be.
Q. My question to you is simply: Was it a small percentage of your time working with controlled

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substances from 2002 to 2006?
A. What would you consider small percentage?
Q. You tell me.
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. Was it a --
A. So --
Q. -- half your job, was it a fraction of your job, did you spend any time doing it?
A. About 25 percent.
Q. Related to controlled substances?
A. Mm-hmm. Yes.
Q. Were you --
MR. McDONALD: You've got to say yes.
BY MR. MIGLIORI:
Q. And were you involved with the suspicious order monitoring programs, if any, at Schein during this period of time?

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A. Yes, as super -- one of the persons on the team was responsible for DEA compliance, they were -- she was more close to it. But as her supervisor, I was involved.
Q. Who was that person in 2002 to 2006 that was directly involved with DEA compliance?
A. Nancy Fariello.
Q. And is Nancy still with the company?
A. No.
Q. And she reported to you?
A. Yes.
Q. Okay. In 2006 you move over to manager of regulatory affairs. What is the difference between a supervisor and a manager of regulatory affairs?
A. So we didn't have a manager position back in 2002. As a result of the growth of the department there was more responsibility and that give place to the manager position.
Q. It says in this description,

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as manager of regulatory affairs, that "you were responsible to ensure general compliance with federal and state regulations applicable to the distribution of drugs and medical devices, including the coordination of product recalls."

Did that include controlled substances?

A. Yes, it did.

Q. Did -- was that still being held -- managed by Ms., I think you said Fariello?

A. I don't remember at what point she left the company.

Q. Okay. Did somebody replace her in that role?

A. Yes.

Q. Who?

A. Craig Schiavo.

Q. Okay. And Craig continued to work under you for several years, correct?

A. Yes, he did.

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Q. And his position was more directly related to DEA compliance?

A. He did evolve into that, yes.

Q. Okay. So you were also responsible for hazardous material handling, OSHA, environmental regulations, as well as managing the completion of a wide variety of regulatory projects.

Is it fair to say that DEA compliance was not your primary focus at this point, from 2006 to 2010?

A. Was not the only focus.

Q. Henry Schein has several divisions during this period of time, correct?

A. Business units?

Q. Yes.

A. Yes.

Q. All right. And you were director of regulatory affairs for the various business units domestically, correct?

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A. Yes.

(Document marked for identification as Exhibit Henry Schein-Tejeda-3.)

BY MR. MIGLIORI:

Q. Let me show you Exhibit 3. It is a document we found online that describes -- it's -- it's dated June 7, 2010. It says, "Henry Schein appoints new director of compliance. 6.5 billion, Henry Schein, a Melville, New York-based distributor of healthcare products and services to office-based practitioners, has promoted Sergio Tejeda to director of regulatory operations and compliance."

It says -- do you -- do you recall this promotion?

A. Yes.

Q. Was this about the period of time when this happened, about 2010?

A. The promotion to director, yes.

Q. Okay. It says, "Tejeda joined Henry Schein in 1990 and spent his

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first eight years at the company as a returns supervisor. In 2006 he was promoted to regulatory affairs manager and assumed responsibility of the regulatory affairs team at GIV, General Injectables and Vaccines, a Henry Schein company."

In 2006, was your promotion to the GIV division of Henry Schein?

A. GIV was a subsidiary of Henry Schein and their regulatory team did report to me. I think that was 2007, but...

Q. So in 2010, was your responsibility as director of compliance limited to the general injectables and vaccines division?

A. No. That was in addition to the Henry Schein regulatory compliance.

Q. Okay. So did the GIV have controlled substances?

A. Yes.

Q. And were the suspicious order monitoring systems in place at GIV

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that were in place throughout the rest of Henry Schein?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. At this time?
MR. McDONALD: Object to the form.
Go ahead. You can answer if you understand.
THE WITNESS: They weren't the same. They were similar.
BY MR. MIGLIORI:
Q. Wasn't it true that GIV was lagging behind Henry Schein in terms of suspicious order monitoring compliance?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. In 2010?
MR. McDONALD: Object to the form.
THE WITNESS: As far as our best practices, they had some

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opportunities.
BY MR. MIGLIORI:
Q. They had some opportunities to improve?
A. Yes.
Q. So on the first page of your CV going back to Exhibit Number 2. This position is described here as director of regulatory operations and compliance 2010 to 2013.
Are we talking about the same position?
A. The same position as -- as the document?
Q. As -- as the press release?
A. Yes.
Q. And again, this is across all Henry Schein business units, correct?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. Domestically?
MR. McDONALD: Same objection.

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THE WITNESS: Domestically.
BY MR. MIGLIORI:
Q. Okay. So it involved -- what were the other business units that you were responsible for at this time?
A. Dental, medical, vet.
Q. Vet?
A. Veterinary medicine.
Q. Okay. Okay. And it makes reference here to the FDA, DEA, and HAZMAT compliance.
Do you see that?
A. Yes.
Q. So -- and it also has oversight of the Canadian regulatory team on the second page, right?
A. Yes.
Q. Who was the person that was more directly involved under you at this point for DEA compliance relative to controlled substances, was that Craig Schiavo?
MR. McDONALD: Object to the form. Vague as to time.

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THE WITNESS: Should I respond?
MR. McDONALD: If you understand the question, Sergio, then you should answer the question unless I tell you not to.
THE WITNESS: Okay.
So I -- I think at the beginning of that period, Craig Schiavo was focused on that. We added resources to that function over time.
BY MR. MIGLIORI:
Q. Okay. In 2010, Henry Schein -- at the beginning of 2010, Henry Schein implemented a new suspicious order monitoring system, correct?
MR. McDONALD: Object to the form.
THE WITNESS: The enhanced suspicious order monitoring system, my recollection is that it was implemented in 2009.
BY MR. MIGLIORI:

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Q. At the end of 2009, in October, November of 2009, correct?
A. I don't remember the exact time. But I think it was earlier than that.
Q. Okay. Well, I'll show you some documents.
But that program, was that as of 2010 when you took this position of director of regulatory operations and compliance, were you then responsible overall for the implementation and execution of that suspicious order monitoring program as it related to controlled substances?
A. From the regulatory side, I was responsible for the development and implementation of the system, yes.
Q. Okay. And you're distinguishing that from the verifications side?
A. We had several project managers.
Q. Okay. And my question was,

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was the verifications department also involved with the execution of that enhanced suspicious order monitoring system?
A. Yes.
Q. And the person there that was most responsible in verifications, was that Shaun Abreu during this period of time?
A. You know, I don't remember exactly when Shaun joined the team. But if you're asking between 2008 and 2009, I don't remember that he was the verifications manager at that point.
Q. I'm asking from 2010 going forward, now that the enhanced monitoring program has been implemented, who else outside of regulatory was responsible for its oversight and management?
A. Okay. Yes, the verifications manager and their management team.
Q. Okay. And do you recall if that was Shaun Abreu at the time?

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A. Again, I don't remember at what point Shaun joined as manager.
Q. In 2010, beginning of 2010, what percentage of the responsibilities with the enhanced suspicious order monitoring program were the responsibility of regulatory, and what percentage was the responsibility of verifications, if you can estimate?
MR. McDONALD: Object to the form.
THE WITNESS: As far as reviewing the orders that have pended in the system, verifications was the first line. And a percentage of that came to regulatory.
BY MR. MIGLIORI:
Q. Okay. Do you know what percentage came to regulatory?
A. Approximately, I mean, but I'm not sure.
Q. Okay. What approximately?
MR. McDONALD: Object to the

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form.
Go ahead.
THE WITNESS: Around 12, 15 percent.
BY MR. MIGLIORI:
Q. Came to regulatory?
A. Came to regulatory, yes.
Q. So beginning in 2010 and going forward to today, is it still true that 85 to 88 percent of the review of suspicious orders at Henry Schein are handled at the verifications stage without regulatory involvement?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. The regulatory department's involvement?
MR. McDONALD: Same objection.
THE WITNESS: Around that percentage.
BY MR. MIGLIORI:
Q. And today, is that

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department managed and overseen by Shaun Abreu?
A. Shaun Abreu, yes.
Q. Okay. In 2013, it's the last entry here on your resumé. It says director of regulatory affairs. Is that the current position that you hold now, or is this the one that switched in 2015?
A. Director of regulatory affairs is what I currently hold.
Q. Okay. I don't see the distinction that you made earlier for me about North America versus domestic.
A. So I'm no longer responsible for the Canadian regulatory team.
Q. Okay. Is that what dropped out from this description in your curriculum vitae around 2015, the oversight of Canadian affairs?
A. Well, based on this, it dropped down in 2013.
Q. Okay. So the position that you hold today, based on this resumé that you prepared last year, the position that

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you hold today is the one described here as director of regulatory affairs, 2013 to the present?
A. Has changed a little bit.
Q. In any way that was significant or related to controlled substances?
A. To controlled substances, we are now responsible for licensure, so we are responsible to maintain controlled substance licenses for the company. And we are responsible for item initiation.
Q. I'm sorry. For what initiation?
A. Item initiation, item creation, to make sure that all items have the correct regulatory attributes in the system, so as it pertains to controlled substances, yes.
And I have less involvement in the quality side, but that's probably not relative to controlled substances.
Q. Do you continue to be responsible for retuning and enhancing

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the company's suspicious order monitoring systems?
A. Yes.
Q. Do you continue to be responsible for the "know your customer" obligations of the DEA?
A. Yes.
Q. And the due diligence program at Henry Schein, are you still responsible for that?
A. Know your customers, the diligence program, yes.
Q. And is that entirely within regulatory affairs, or is that shared with verifications?
A. That is shared with verifications.
Q. Same percentages with responsibility, 85 to 88 percent?
MR. McDONALD: Object to the form.
THE WITNESS: Yeah, around that.
BY MR. MIGLIORI:

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Q. Okay. It says that you helped to formalize the "know your customer" site visit program for different types of accounts.
Were you involved in the "know your customer" site visit program that Tina Steffanie-Oak and others were involved in?
A. Yes, I was.
Q. Did they have to report to you their progress in the "know your customer" project to complete the due diligence --
A. Yes.
Q. -- files?
A. I'm sorry. Yes.
Q. Okay. And it says here that one of your major accomplishments during this period of time, 2013 to the present, was compliance awareness manual and inspection preparedness guidelines for Henry Schein operations. Did you prepare a manual?
A. My team did.

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Q. Did you approve it?
A. Yes.
Q. Did you review it in preparation for today?
A. Did I review it in preparation for today?
Q. In any of the 25 hours of review?
MR. McDONALD: Object to the form.
THE WITNESS: No. That wasn't one of the documents as I remember reviewing.
BY MR. MIGLIORI:
Q. Do you know where that document is today?
A. The current version of which one? The compliance --
Q. The compliance -- I'm sorry, the compliance awareness manual and inspection preparedness guidelines for Henry Schein operations.
A. It's two different documents.

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Q. Okay. Do you know where they are? Where would you go to look for them right now if you had to go get them?
A. Our document management system.
Q. Is that the JDW -- JEW, JWE?
A. No. No, it's not that one.
Q. What is it?
A. It is called PowerDMS.
Q. Okay.
A. It's a specific document control system.
Q. Okay. What kind of documents are kept there, like training manuals?
A. SOPs, training manuals, work instructions, records related to those documents.
Q. Is due diligence kept there?
A. Due diligence?
Q. Yeah.
A. No. For due diligence we have a different system.
Q. Okay. I'll get into that in a moment.
And so the compliance awareness manual, what kind of manual -- what kind of topics were covered in that?

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A. The compliance awareness manual is meant to be a tool for Henry Schein operations, Henry Schein facilities so it covers awareness for our regulatory responsibilities with many different agencies, many different regulations. We cover DEA compliance, we cover FDA compliance. EPA, OSHA. We cover state law.
Q. So would the Ohio suspicious order reporting requirements be in there?
A. That is -- the answer is no, because that document is meant to be awareness for the operations team. So Ohio compliance is covered in a different SOP.
Q. Okay. Did you review that SOP in preparation for today, for the Ohio compliance?
A. No.

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Q. If you were to go look for that today, would that be in the PowerDMS system that you talked about --
A. Yes.
Q. -- with the other SOPs?
Did you help create the compliance awareness manual?
A. Like I said, we -- we discussed the plan, what should cover, then my team developed it. We went through several revisions and then we implemented.
Q. Did -- was that also true for the inspection preparedness guidelines?
A. Yes.
Q. And I assume that includes DEA inspections of distribution centers as well?
A. Yes, it does include DEA inspections.
Q. And then it says, "DEA/FDA compliance education for fields" -- "field sales consultants."

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Were you involved with that compliance education?
A. What was that, I'm sorry?
Q. I'm sorry, the second to last bullet point. If you look on the screen in front of you I can point to it.
A. Okay.
Q. "DEA and FDA compliance education for field sales consultants."
A. Yes, sir.
Q. All right. So tell me about that. What kind of education program did you put together for your field sales consultants?
A. Okay. So we have done a couple of different things. We have attended regional sales meetings, and prepare material to train them on the obligations of the company, their responsibility, what we need to do.
We have, when we do attend regional meetings, there is -- the field sales consultants spend some time with us in either by group or one-to-one basis.

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We provide the explanation, they ask questions. They tell us what their concerns may be. Then we develop a program that we use to train them via phone and web conference. And that was delivered as well in groups, so we had several meetings, so several sessions on that. That was in -- in partnership with Bill Brandt the director of verifications at that point.
We also have developed online education models so our field sales consultants now, when they join the company, they are required to go through this online training, and then I forget how often they need to take refresher.
But those have been some of the things that we have done. We have also meet with field sales consultants groups in our distribution centers. And provide some training that way.
Q. The online training that you discuss, when did that first get implemented?

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A. Last year.
Q. And that includes DEA compliance --
A. Yes.
Q. -- for the sales force.
A. Sorry, yes.
Q. And why is it important to educate the sales force on DEA compliance?
MR. McDONALD: Objection.
BY MR. MIGLIORI:
Q. What role, if any, do they play in DEA compliance at Henry Schein?
MR. McDONALD: Object to the form.
THE WITNESS: It is important to us that everybody knows what the requirements that the company need to comply are. Everybody plays a role.
We have very good relationship with our customers, especially the field sales consultants. They visit our

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practitioners' offices on a daily basis. So they need to understand what they can, what they cannot do. They need to understand it in order to -- for them to be able to do their work, better service our customer without putting the company at any risk or...
BY MR. MIGLIORI:
Q. Are they involved in the due diligence process either for a new customer that they onboard or for existing companies -- customers?
MR. McDONALD: Object to the form. Go ahead.
THE WITNESS: Not really. We -- we are developing a program that somebody from operations or an FSC may carry a laptop or something to the customer office, and we will be on the other side of the -- of the line, and they will be able to interact with the customer by showing documents,

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assisting to show us what the facility is, things like that.
But the -- the review will be conducted by somebody in regulatory.
BY MR. MIGLIORI:
Q. Okay. This is something you're developing now that's not yet implemented?
A. Yeah. We have tested a couple of times.
Q. So it's essentially a virtual site visit, that is, it's through -- through laptop interaction of some sort?
A. Essential, yes. Virtual site visit.
Q. Does the sales force, are they trained in this either online or written or regional sales meeting trainings, are they trained to identify red flags or potential suspicious issues relating to controlled substances, is that part of the training?

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A. Yes. We cover red flags, we cover potential signs of issues.
Q. So before the online training, was there written training material that you would hand out at these regional sales meetings on issues like red flags, things for sales force to watch out for?
A. Yes. Usually what we did is we had a laptop on the table. We can have the PowerPoint presentation there. And we have printouts of the presentation. Then that evolved into an electronic flash drive that they can carry with them. They were complaining that they had too much paper, they don't want to carry anything.
Q. How often did you have these regional sales meetings where you would educate the sales force on DEA compliance?
A. So it used to be more often. Now it's probably once, twice a year.
Q. Okay. And did they go back

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before 2013 when you took this position --
A. I --
Q. -- that is, the regulatory training and education of sales force-type meetings, do you recall them happening before 2013?
A. Yes.
Q. How far back, to your recollection, were those types of training sessions or -- or presentations made to the sales force, to your best recollection?
A. 2010, maybe.
Q. So, since the launch of the enhanced suspicious order monitoring system maybe, that you incorporated training of sales force in the DEA compliance training program, does that seem to coincide with your recollection?
A. Yeah, it is a separate program, yes.
Q. Okay. And are those written materials or presentations, things that

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are on the thumb drives, is that something that you still use today?
A. PowerPoint changed. I mean, the materials change. They evolve, you know.
Q. If you were to go to look for them, either historically what you were using in 2011 or up to today, would they also be in the PowerDMS system?
A. PowerDMS wasn't in place in 2011. I would think it would be a combination of hard copies or somewhere in somebody's computer. I don't know how much we have retained.
Q. Sure. And we'll take a break in a second. I just want to know, was there a title to this kind of training manual or these kind of presentations for the sales force? Is there some way that you referred to those types of education and training materials for the sales team?
MR. McDONALD: Object to the form.

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BY MR. MIGLIORI:
Q. Was it called regional sales training? Was it called anything that you can particularly remember if you were to say, I need to go grab the education materials for the sales force?
A. No, not really.
Q. Okay. Who would you ask in your department for the latest version of it?
A. The latest version?
Q. Yeah. If you said I want to read it this afternoon, ask so and so to go get it for me. Who would be that person?
A. Liam Schauer would be one.
Q. What position is Liam Schauer in?
A. He's a senior regulatory specialist.
Q. Okay. And is your team responsible for updating it, verifying its accuracy, making changes and modifications to it?

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A. Yes.
MR. MIGLIORI: Why don't we take a break here.
THE VIDEOGRAPHER: Going off the record 10:15 a.m.
(Short break.)
THE VIDEOGRAPHER: Back on record at 10:27 a.m.
BY MR. MIGLIORI:
Q. Okay. Mr. Tejeda, here is Exhibit Number 4.
(Document marked for identification as Exhibit Henry Schein-Tejeda-4.)
BY MR. MIGLIORI:
Q. This is a standard operating procedure that bears your name on top. It's dated, as I read this, original issue January 30th, 2002.
It says prepared by Sergio Tejeda, revised March 14, 2003.
So first of all, is this you that prepared this?
A. Yes, along with Frank

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Pesale.
Q. And by looking at it, would you have prepared the original issue, or is the way this is prepared, this would say that you prepared the revision in March of 2003? How do I read this document?
A. It is -- would be prepared in collaboration with Frank. At this point, Frank will have more of a role of doing the revision, and I will have more of a role of reviewing and approving. But, you know, we worked close together.
Q. I guess my question is a little more basic. In looking at the document, can you tell whether you were involved with the original issue or are you only necessarily here involved in preparing the revision? And can you tell from looking at the document? And if you don't know, that's fine too.
A. I don't remember.
Q. All right. On the front page it says, "The purpose of this policy

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is to comply with the PDMA record retention requirements and to standardize Henry Schein's record retention procedures."
What is PDMA?
A. Prescription Drug Marketing Act.
Q. Okay. And it gives some definitions, and it lists different acronyms. ICT is the inventory control ticket, et cetera.
And then on the right side it has WCS, the warehouse control system. What is that system?
A. So it's -- it's a warehouse management system. It's an operations management system.
Q. Does it cover all the distribution centers?
A. At this point we had two. WCS and WMS were both warehouse management systems.
Q. And they were -- in 2003, they were online?

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A. Online.
Q. And everybody -- what kind of information relative to controlled substances would have been stored there, if any?
A. The receipt, storage, location moves, pick, pack.
Q. What is pick, pack?
A. I'm sorry. When we get an order then our distribution centers have a print room. So the print room will print a batch record, which will cover several invoices, several shipments. So pickers are assigned batches. And then they go to the locations of the products, and they pick the product, they put it in a tote or box that is specified for that order.
In the case of controlled substances, either the box will travel into the drug room, or if it's only a controlled substance, then the whole order, the batch will go directly to the drug room to be completed.

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Q. So these systems are designed to track the intake and the movement of controlled substances within the distribution center?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. That is, the people and the places where the controlled substances are being moved while they're in the position -- distribution center?
MR. McDONALD: Object to the form.
THE WITNESS: Well, I will say that at a very big level they are much more complex. But again, big picture, it will be inventory control and things like that.
BY MR. MIGLIORI:
Q. So would every order, for example, from the state of Ohio be recorded somewhere in the warehouse control system and/or the warehouse maintenance system?

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A. The warehouse management system. At the point of the order being processed, yes.
Q. And processed means from the distribution center out the door?
A. Yes.
Q. Okay. And those records are -- are searchable by zip code or by region? How are they managed, if you know?
A. The records that are in the system, they may be searchable by account number. They may be searchable by invoice number. They may be searchable by item code.
Q. What about -- so by a physician or a practitioner?
A. Account, yes -- by the account number, yes.
Q. And what kind of information is in the JD Edwards system as it relates solely to controlled substances?
MR. McDONALD: Object to the form.

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THE WITNESS: So to my understanding, JD is the sales management -- the transaction management system. So it will be the transaction side.
BY MR. MIGLIORI:
Q. Now, are the transactions different from the distribution records from the warehouse control system? Are they two separate databases of transactions?
A. So JDE, it's a different system than WCS.
Q. And but each would record a portion at least of the order and processing of each transaction, correct?
A. That is my understanding.
Q. So if I have a record or a field for a Dr. Smith in Summit County, Ohio, for placing an order, I'd be able to find that order both in the warehouse control system or the warehouse management system, as well as in the JD Edwards system?

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MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. Correct?
MR. McDONALD: Object to the form.
THE WITNESS: At the time that the order has been -- that's being processed and through the recordkeeping time.
BY MR. MIGLIORI:
Q. Where would the pended orders be stored? What system would pended orders show up in?
A. I'm not sure if it's a different system.
Q. Okay. Where would an order pend? Would an order -- would it pend at the warehouse control system? Or would it pend at the transactional level in the JD Edwards system? In other words, where would the actual trigger occur?
A. Would pend -- would be pended by the suspicious order monitoring

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system. My point was, I'm not sure where that SOM resides and what part of the software.
Q. Okay. Let me see if I can walk through an example. So a doctor places an order. Does the doctor in -- let's say in 2010, does the doctor place that order online?
MR. McDONALD: Object to the form.
THE WITNESS: So there were many different ways for a doctor to place an order.
BY MR. MIGLIORI:
Q. Okay. At what point does that order hit the warehouse control system? Immediately or after it's been reviewed by the suspicious order monitoring system?
MR. McDONALD: Object to the form.
THE WITNESS: After it has been reviewed by not only the suspicious order management

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system, but any other systems that look at the order.
BY MR. MIGLIORI:
Q. Okay. So if an order gets to the warehouse control system, it has already passed through the suspicious order monitoring system?
A. Yes.
Q. What about the JD Edwards system, those transaction records? For it to show up in the JD Edwards system, would it already have passed through the suspicious order monitoring process?
MR. McDONALD: Object to the form.
THE WITNESS: I'm sorry, I was a little distracted. Could you repeat?
BY MR. MIGLIORI:
Q. Sure.
So the transactional records for that same order that we just discussed, a doctor in Summit County making an order in 2010, will that order

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pass through the suspicious order monitoring system before it gets to the JD Edwards system or after?
MR. McDONALD: Object to the form.
THE WITNESS: Again, I don't -- I'm -- I don't know where the SOM resided. It's different than JDE, or within JDE or within a different system.
BY MR. MIGLIORI:
Q. Okay. All right. I'll get back to those types of reports in a second.
So as I understand, if you turn to Page 2 of this document. The revision history lists the different changes to this standard operating procedure, correct, that's what this page does?
A. Yes.
Q. And the Revision 3 that's being documented here revises the record retention contact guide section of

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proceeded to eliminate specific primary and secondary contact names.
So this is a revision of an existing records retention policy, correct?
A. Yes. Revision of Revision 2.
Q. It seems to be Revision 3, but I -- maybe I'm reading it wrong.
MR. McDONALD: He says it's a -- he said it's a revision of Revision 2.
BY MR. MIGLIORI:
Q. Oh, okay. It's a revision of Revision 2. Gotcha. Thank you.
The original, January 30, 2002, that's the original policy, correct?
A. Yes.
Q. By reading that date, does that mean that the record retention policy that's referred to in this standard operation -- operating procedure was first documented on January 30, 2002?

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A. That is correct.
Q. All right. I want to bring your attention to -- so if you look at the Bates page that ends in 266?
A. 266.
Q. It's actually Page 6 of the standard operating procedure.
A. Okay.
Q. It says, "For regulatory affairs, the primary contact would be the regulatory affairs supervisor." And then it says records, and it lists a bunch of different records for regulatory affairs.
It says product distribution history. Is the regulatory affairs department responsible for the product distribution history, including controlled substances?
A. At that point it was responsible to produce that information.
Q. And to retain it under this policy, correct?
MR. McDONALD: Object to the form.

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THE WITNESS: I'm not sure that that's the case.
BY MR. MIGLIORI:
Q. Well, this is the document retention policy of Henry Schein, correct?
A. Correct.
Q. And this section lists the different departments and the records that they maintain, correct? Am I misreading this?
A. The records that we will be responsible to produce, I don't know that we will be responsible to maintain the system.
Q. Well, if you look at the -- if you look at the top of Page 262 or page -- I think -- it's hard to tell what it says here.
It says, "Record retention slash contact reference guide."
MR. McDONALD: He's not with you, Don.
There you go.

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THE WITNESS: Okay.
BY MR. MIGLIORI:
Q. This section is the record retention, not record produced section.
Do you see that?
A. Record retention contact reference.
Q. And -- and going back to regulatory affairs, under the record retention it says, "The record of regulatory affairs includes product distribution history."
That's what you signed off on in March of 2003, correct?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. It's your signature on the front of this document, correct?
A. My signature, yes.
Q. Okay. So let's start with -- I'm reading that correctly, right? This is a record of the regulatory affairs department, correct?

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A. It is a record that the regulatory affairs department will be responsible to produce.
Q. To produce to whom?
A. Well, we will go to whatever system, whatever process we had -- somebody will request it. Then we will go to the system. We will type a query or whatever was the procedure.
Q. Okay.
A. And then get a report, and that's your record.
Q. Are you responsible for making sure that it's maintained and secure within your department?
A. Again, it is maintained in the system. So we have IT security, IT management that are responsible to make sure that everything is the -- is in the system is kept correctly and secure.
Q. Okay. And the regulatory affairs department, part of the record would be customer purchasing history for controlled substances only. That was

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maintained or the responsibility of the regulatory affairs department to produce, correct?
MR. McDONALD: Object to the form.
THE WITNESS: Yes.
BY MR. MIGLIORI:
Q. All right. So is that still true today?
A. No.
Q. Who is responsible for that today?
A. So if somebody requests a customer purchase history, I would go to verifications to input the request.
Q. Was an SOP revised to say that's a verifications function then, to your knowledge?
This is a 2003 document.
A. Yeah, I'm -- I think there were more than one revisions after this one.
Q. That's not my question. Was that revised to say that you are no

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longer responsible for customer purchase history for controlled substances only in the regulatory affairs department, was that moved in an SOP to your knowledge?
A. I don't know.
Q. It says that the regulatory affairs department would be required to produce product recall information?
A. That is correct.
Q. Regulatory affairs would be required to produce government inquiries, is that true?
A. At that point, it was.
Q. Did that change?
A. That process has changed.
Q. When?
A. I don't remember when.
Q. To whom? Who is now responsible to produce government inquiries?
A. Now it is an effort between verifications, regulatory with copy to legal.
Q. What about DEA inquiries

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into doctor prescribing habits, would that be considered a government inquiry?
A. Yes.
Q. Or DOJ inquiry into suspicious transactions that appear either in ARCOS or in the Ohio reporting system, would that be a government inquiry?
A. Yes.
Q. And where would that be documented in the system today?
A. Where the -- the inquiry or the response or?
Q. Yes. The inquiry or the response.
MR. McDONALD: Well --
BY MR. MIGLIORI:
Q. Whatever is referred to here as the record of government inquiries. Whatever that means to Henry Schein?
MR. McDONALD: Object to the form.
THE WITNESS: I'm not sure.
BY MR. MIGLIORI:

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Q. Is that in JD Edwards?
MR. McDONALD: Object to the form. If you know tell him, but don't guess.
THE WITNESS: I don't know.
BY MR. MIGLIORI:
Q. Okay. That's --
MR. McDONALD: And, Sergio, this is true throughout. If you tell him an answer, he's going to assume that's true and that's actual factual. If you don't know, then tell him that you don't know. He doesn't want you to guess.
MR. MIGLIORI: That's a substantial -- I'll accept it.
MR. McDONALD: You don't want him to guess. You don't want him to guess, do you?
MR. MIGLIORI: And I asked him in the beginning.
MR. McDONALD: Right.
MR. MIGLIORI: But I don't

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need a --
MR. McDONALD: And he was -- he was --
MR. MIGLIORI: I don't need --
MR. McDONALD: -- hesitating.
MR. MIGLIORI: You know what I'm saying.
MR. McDONALD: You and I both know that he was hesitating and about to guess.
MR. MIGLIORI: And I agree with the instruction. And we can stipulate that it doesn't have to be made again. Fair?
MR. McDONALD: Unless I feel like he's about ready to guess again.
MR. MIGLIORI: Just try not to coach. We've had plenty of issues with that.
MR. McDONALD: You and I haven't had very many issues at

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all.
MR. MIGLIORI: We haven't. That's why I'm smiling.
BY MR. MIGLIORI:
Q. You don't know where the government inquiries would be recorded and documented in the system, correct?
A. I'm not sure what the office of record is for that documentation.
Q. One of the beauties of this document is you signed it, and you wrote it. So I'm just trying to understand what you understand this to mean. There is a government inquiries record referred to in an SOP that you literally signed off on.
And I'm trying to understand, one, what is a government inquiry as it relates to controlled substances, and two, where would you find it?
A. Okay.
Q. So let's start with the first part. The government inquiries, as

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it relates to controlled substances. What would those be, to your knowledge?
A. It would be a subpoena for records.
Q. Okay. And would that include transactional records that the DEA or DOJ might request of a particular physician?
A. Yes.
Q. And would it be the practice of Henry Schein to maintain that subpoena?
A. Yes.
Q. If there were a letter from a DEA field office or the DOJ asking for information voluntarily, would you maintain that letter as well?
MR. McDONALD: Object to the form.
THE WITNESS: At the point of this SOP being written, regulatory would have.
BY MR. MIGLIORI:
Q. Okay. And you said at some

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point, that may have changed to verifications?
A. I said at some point it was changed, that the process includes verifications, regulatory, with copy to legal.
Q. Okay. And so at some point it's not maintained just by regulatory, but three different departments would have that record somewhere --
MR. McDONALD: Objection.
BY MR. MIGLIORI:
Q. -- or access to that record somewhere, correct?
MR. McDONALD: Object to the form.
THE WITNESS: I didn't say that. I said that the effort to put that information together will be shared. I said I don't really know where that record is maintained, what is the office of record for that record for right now.

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BY MR. MIGLIORI:
Q. All right. And we don't have to talk about the other ones.
If you go to the previous page, verifications has a list of records in your SOP here. And in verifications, 222 forms are the responsibility of the verifications department in 2003, correct, return forms?
A. Yes.
Q. In fact, that was one of -- that was your job title at this point in time, correct, returns?
A. No. I wasn't in returns at that point.
Q. In 2003?
A. I was in regulatory affairs in 2003.
Q. Okay. But this was your department before that, correct? You would have handled 222 forms when you were in the returns department?
A. For returns only. Yes.
Q. Yeah. So did you fill out

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222 forms?
A. No.
Q. And the sales and return or the 222 forms, did they apply to controlled substances?
A. The 222 forms required for Schedule II controlled substances.
Q. Okay. And so at least at this time in 2003, that was the responsibility of the verification department to produce, if requested, correct?
A. Correct.
Q. Did it remain the verifications' responsibility through till today?
A. Yes.
Q. How about suspicious monitoring monthly reports? Are those maintained by the verifications department in 2003, or did they -- were they the department responsible for producing them?
A. They were the primary

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responsible for producing them.
Q. Do they -- is that still true today?
MR. McDONALD: Objection.
THE WITNESS: We don't -- Sorry. We don't produce those reports anymore.
BY MR. MIGLIORI:
Q. Did the monthly reports stop after the 2017 master's decision or some time before that, or was that the 2010 enhancement?
MR. McDONALD: Object to the form.
THE WITNESS: I don't remember when it stopped.
BY MR. MIGLIORI:
Q. After the monthly reporting -- and so there was a period of time at Henry Schein where suspicious orders were gathered and reported on a monthly basis to the DEA field office, correct?
MR. McDONALD: Object to the

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form.
THE WITNESS: Do you mean the report of orders pended and not released?
BY MR. MIGLIORI:
Q. I'm actually -- actually just using your words in your document. There was a period of time when suspicious monitoring monthly reports --
A. Yes.
Q. -- were submitted to the DEA field office on a monthly basis, correct?
A. Correct.
Q. Not when the suspicious orders were discovered, correct?
A. Correct.
Q. And that was changed as a result of Buzzeo consulting with Henry Schein and coming up with an -- I think you referred to it as an enhanced suspicious order monitoring program that was implemented sometime in 2009, correct?
MR. McDONALD: Object to the

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form.
THE WITNESS: I'm sorry. The question was kind of long, so --
BY MR. MIGLIORI:
Q. This change in this monthly reporting occurred as a result of Buzzeo consulting and advising you that it was noncompliant to report to the DEA on a monthly basis suspicious orders, correct?
MR. McDONALD: Object to the form.
THE WITNESS: I don't remember when we discontinued the report.
BY MR. MIGLIORI:
Q. Do you know if it was before 2009?
A. I don't remember.
Q. Okay. But you understand that that process of monthly reporting was at some point terminated because it was noncompliant with DEA regulations on suspicious order monitoring, correct?

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MR. McDONALD: Object to the form.
THE WITNESS: No. I don't remember the process not being compliant with the DEA requirements.
BY MR. MIGLIORI:
Q. So as you sit here today as the director of regulatory affairs, you cannot recall whether or not it was ever acceptable to report suspicious orders on a monthly basis and not when discovered?
MR. McDONALD: Object to the form.
THE WITNESS: For a period of time it was industry-based practices and the DEA did accept that.
BY MR. MIGLIORI:
Q. The -- the DEA accepted that.
Did a DEA person tell you that that was acceptable ever?
A. Not personally.

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Q. No?
A. But as a matter of fact, we just got a communication maybe less than two months ago of some -- one local office requesting that type of information.
Q. Okay. Did you get the 2007 letters from Joe Rannazzisi, did you see those letters from the DEA in 2007 when they -- when they arrived in 2006 and 2007?
A. The 2006 letter and the December 2007 letter.
Q. Did you understand those letters when you received them?
A. We did review the letters.
Q. I didn't ask if you reviewed them. Did you understand them?
A. Yes.
Q. Okay. Did you change your monthly suspicious monitoring reporting to a system where you now reported pended or suspicious orders at the time you discovered them instead of on a monthly

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basis?
MR. McDONALD: Object to the form.
THE WITNESS: You mean based on --
BY MR. MIGLIORI:
Q. No, at any point. Did you change that system?
A. Yes.
Q. Is the verifications department responsible for producing licensing information for all of your customers?
A. They are responsible for maintaining and verifying the licensure information for our customers.
Q. Okay. Including DEA registration?
A. Including DEA registrations.
Q. Is the verifications department responsible for producing documents relating to the DEA NTIS tape?
A. The DEA NTIS tape is part of our verifications system. It is a

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service that we use.
Q. Right. You -- and you -- and you download from that service for each customer, correct?
A. Yes.
Q. It's part of verifications, right?
A. Yes.
Q. And those records are the responsibility of verifications department to produce, correct?
A. Correct.
Q. The customer licenses and DEA microfilm, that was required to be produced as a record of the verifications department, correct?
A. Correct.
Q. And that contained information about -- including customer due diligence, correct?
A. Microfilm?
Q. This -- this particular DEA microfilm reference, what is it?
A. I'm not sure.

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Q. Do you -- are you familiar with any microfilm storage of documents and information or records maintained by Henry Schein?
MR. McDONALD: Object to the form.
You mean currently?
THE WITNESS: We no --
MR. MIGLIORI: At any time. For controlled substances.
THE WITNESS: We no longer have microfilm.
BY MR. MIGLIORI:
Q. Were you involved in any decisions to purge microfilm records?
A. No.
Q. Are you familiar with any point in time when Henry Schein decided to purge microfilm records?
A. No.
Q. The ARCOS reporting, was that a record that was supposed to be maintained and produced by the verifications department?

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MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. In 2003?
MR. McDONALD: Object to the form.
THE WITNESS: So the ARCOS report is produced by the verifications department based on the system information.
BY MR. MIGLIORI:
Q. And is that still true today?
A. Yes.
Q. Go to the last pages.
MR. McDONALD: Which page?
MR. MIGLIORI: It ends in 269.
BY MR. MIGLIORI:
Q. It says verification department, and it lists the various records we just went through?
A. Okay.
Q. And then there's the

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retention in years next to each one of those items. So for the 222 forms, sales and returns, it says, "Control drug point person verification five-year retention file copy."

What does file copy mean under retrieval?

A. Hardcopy.

Q. So -- so at this point, those 222 forms were maintained as hard copies?

A. Yes.

Q. Is there a file room for those hard copies? Where would you go for those hard copies?

A. I will go to the verifications department.

Q. Okay. And are they still maintained in hardcopy?

MR. McDONALD: Well, can -- I'd like to clarify the record. You said so at this point. Did you mean today or did you mean at the time of this document?

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MR. MIGLIORI: Well, first I said at this point, and now I said I said still today.

MR. McDONALD: Okay. I just want to be sure that when he answered at this point, he meant -- he understood you to say at the time this document was prepared.

That's how you were answering the question. I just want it to be clear.

MR. MIGLIORI: Sure.

THE WITNESS: Right, so at -- at the time this document was produced, the 222 forms, verifications was responsible to produce them to maintaining. That's --

BY MR. MIGLIORI:

Q. My question is today, are 222 forms maintained as hard copies to your knowledge?

A. To my knowledge I think it

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is a combination of. We have implemented a controlled substance ordering system. So some customers may still order using 222 forms. Some customers order using CSOS.

Q. And those are maintained by the verifications department today?

A. The 222 forms?

Q. Yes.

A. Yes.

Q. Okay. Does verifications still maintain the -- the current suspicious monitoring reporting, not the monthly, but the current reporting system?

A. The current reporting system is shared. Verifications will report some suspicious orders, regulatory will report some others.

Q. Based on what?

A. Based on who did the review. Based on what type of restriction it wants.

Q. Is it fair to say that the

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percentage of review would be what we discussed earlier, that -- that -- about 85 to 88 percent of the suspicious reporting is managed at the verifications level and the balance, 12 to 15 percent, is managed at the regulatory affairs department level?

A. You mean that verifications, when it comes to regulatory, is about 15 percent of the volume, yes.

Q. Okay. On the last page it talks about the document retention and regulatory affairs. And it says that the product distribution history is in the JDE system and it's to be maintained for ten years.

Do you see that?

A. I see that.

Q. And that's for controlled substances as well, correct?

A. That was mainly for recall, product recall purposes.

Q. Okay. The next one says, "Customer purchase history for controlled

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substances only, has controlled purchases by DEA number (report), WCS" -- that's the warehouse control system -- "for ten years."

That's how long the record retention program was for customer purchase history in 2003?

A. That is correct.

Q. Is that still the record retention policy?

A. Record retention policy right now for controlled substances, because of the Drug Quality and Security Act has been revised.

Q. And what is it now?

A. Six years.

Q. And when did that change?

A. I don't remember.

Q. And the basis for that was which statute?

A. Drug Quality and Security Act.

Q. And so did it reduce from ten to six as a result of that act?

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A. So I know that today, that is the record retention. I don't know when this changed.

Q. Okay. If there is litigation, is that handled or is that dealt with in the Schein document retention program relative to this type of purchase history?

MR. McDONALD: Object to the form.

THE WITNESS: I'm sorry. I don't understand the question.

BY MR. MIGLIORI:

Q. Sure. Have you been asked not to purge or destroy any records relevant to customer purchase history during the pendency of this litigation?

A. Yes.

Q. And that would include these types of documents here, correct, the controlled purchases by DEA number of Schein customers, correct?

A. Well, that will include whatever was in my possession or on my

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records.

Q. Okay. And do you know when that order was implemented relative to this type of information for controlled substances?

MR. McDONALD: You mean the litigation document hold?

MR. MIGLIORI: Mm-hmm.

MR. McDONALD: You just said order. He looked puzzled by what you meant by that.

THE WITNESS: Yeah, the document hold, I don't remember exactly.

BY MR. MIGLIORI:

Q. If you were to go right now and go look at the orders in Ohio of controlled substances, where would you go?

A. Well, I could ask verifications to run a report.

(Document marked for identification as Exhibit Henry Schein-Tejeda-5.)

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BY MR. MIGLIORI:

Q. I'm going to show you Exhibit 5. Does that look like a report that you might get out of verifications?

A. Yes.

Q. It doesn't come out -- strike that.

This has a title that's been added for purposes of this litigation. Do you see that on top, Schein Summit County customers?

A. Yes.

Q. And it has opioid orders from 2001 to 2008.

Do you see that?

A. Yes.

Q. Who would put that information on top of an Excel spreadsheet like this?

MR. McDONALD: Object to the form.

BY MR. MIGLIORI:

Q. Do you know?

A. Whoever was responsible to

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prepare this report.
Q. What does this report demonstrate? Take Line 1 and walk me through it.
Is this a -- is this a purchase history? Is this a product distribution history? Is this one of the documents that comes out of the warehouse control system? Or does it come out of the JD Edwards system? Tell me what you can tell me from looking at this Exhibit 5.
MR. McDONALD: Object to the form. Lack of foundation.
MR. MIGLIORI: I'll stipulate that there's a lack of foundation. That's why I'm trying to figure out what the heck this thing says.
MR. McDONALD: Well, and with all due respect, Don, I don't think he's the guy to do it.
MR. MIGLIORI: Well, I just got it this weekend. So I don't

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have any more depositions to find out.
MR. McDONALD: Well, you know, Don, as I have told your colleagues, if there's some issue with documents that were recently produced that's --
MR. MIGLIORI: We'll get to it.
MR. McDONALD: I know. Let me finish because I want it clear on the record. If there is some issue with documents that we recently produced and the person that knows the most about it or can explain to you has already been deposed, we're happy to have a conversation with you to facilitate that process.
MR. MIGLIORI: I appreciate the offer. I want to understand, since he is responsible for this type of information or the production of this type of

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information, I want to understand what his recollection or knowledge is of it. And he can limit it, obviously, to what he knows.
BY MR. MIGLIORI:
Q. But if you look at Exhibit 5, Mr. Tejeda, what is this, as best you can tell as director of regulatory affairs at Henry Schein?
A. It's a report that was produced as a request of information for this litigation.
Q. So as I'm looking at this Exhibit 5, this is not a document that's kept in this form, correct? This is a query in a report of things that were particularly asked for. Is that a fair statement?
A. That is my understanding.
Q. Okay. And so somebody came up with parameters of what to put into this Excel spreadsheet, and these are the different fields that were requested, correct?

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A. Yes.
Q. And can you tell by looking at this where these fields come from; that is, which system this reporting comes out of?
MR. McDONALD: Again, object to the form. Lack of foundation.
THE WITNESS: I can't.
BY MR. MIGLIORI:
Q. Okay. And if you were to ask for the opioid orders from 2001 to 2008 as director of regulatory affairs, who would you ask for this information from? Who is required to produce it under the Henry Schein retention program?
MR. McDONALD: Object to the form. Assumes facts not in evidence.
THE WITNESS: I would define the parameters as far as what type of information were you looking for, and I think I will ask the verifications team for the report.
BY MR. MIGLIORI:

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Q. Now, it says opioid orders. And so as you go through it, it seems like most of these are self -- self-explanatory. But I can't tell how this is organized; that is, the dates aren't chronological.

Can you tell, in the ordinary course of business, looking at a sheet like this, how this may have been organized?

MR. McDONALD: You mean how it's sorted?

MR. MIGLIORI: Yeah.

BY MR. MIGLIORI:

Q. I mean, the order dates are not chronological. The ordering physicians are not -- repeat themselves. So I'm just trying -- again, it seems like the most -- it seems to be organized in part by practitioner. But I'm just trying to get a sense of how you would read this.

A. I would read that it seems to be organized by practitioner by

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account.

Q. Okay. And so did you review this in preparation for today?

A. No, I didn't.

Q. Were you advised who would request the certain fields of information to be gathered and printed into this? Were you part of that process or know who was part of that process?

A. I think the request came from legal.

Q. Okay. And did it -- was it Shaun Abreu or his department that would have put this together?

MR. McDONALD: Object to the form.

THE WITNESS: I am not sure who put it together.

BY MR. MIGLIORI:

Q. Okay. Let's take another example. If you go to Page 11 and 12. You see there are multiple references to Adolph Harper, Junior.

Do you see that?

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A. Multiple references to the name of the account or --

Q. It says under mailing, but it has a name.

A. Okay. Okay.

Q. Do you see where I am?

A. Adolph.

Q. Harper Junior.

A. Okay.

Q. And then it's got orders that range from 2000 -- best I can tell, 2004 to 2008 over the next several pages.

2003. I see one entry of 2003.

A. Yes.

Q. Do you know who Dr. Harper is?

A. I don't.

Q. Did you do anything to educate yourself on the amount of volume Dr. -- any of the doctors in Summit County ordered in preparation for today?

A. No, I didn't.

Q. Were you aware that

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Dr. Harper was the third largest by dosage unit -- I'm sorry, by -- by -- he was the largest by dosage unit customer of Henry Schein in Summit County?

MR. McDONALD: Object to the form.

THE WITNESS: No, I can't say he was.

BY MR. MIGLIORI:

Q. Have you -- the due diligence file for Henry Schein, is that something that you maintain in your department or you were responsible for producing today?

A. Again, it depends on if regulatory conducted that due diligence, yes. And if it was conducted by verifications, then verifications will produce it.

(Document marked for identification as Exhibit Henry Schein-Tejeda-6.)

BY MR. MIGLIORI:

Q. I just handed you Exhibit

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Number 6.
A. Yeah.
Q. This is Dr. Harper's -- this is all I have for Dr. Harper's due diligence. It's a printout of the screen shot of the due diligence file. That's all that's been produced to me.
A. Okay.
Q. I'm representing that to you.
MR. McDONALD: Well, I'll represent to you that we told you guys that we produced initial screen shots for all these customers last week.
MR. MIGLIORI: Right. And -- and you've produced to me due diligence folders of due diligence files or supported due diligence files months ago.
MR. McDONALD: Right.
MR. MIGLIORI: To date, all I have for Harper is this. That's all I'm representing.

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MR. McDONALD: And there wasn't an additional screen shot on Friday.
MR. MIGLIORI: This is Friday's.
MR. McDONALD: Okay.
MR. MIGLIORI: The only reason I'm doing this is because I'm -- I'm trying to understand what I got.
BY MR. MIGLIORI:
Q. And if you look at this Exhibit 6, this is the screen shot of Dr. Harper's due diligence file. Are you familiar with the system where you can go look at this inventory?
MR. McDONALD: Well, Don, I hate to interrupt you, but based on the Bates number, I find it hard to believe that this was Friday. Because it's 983.
MR. MIGLIORI: I will stand corrected if that's true. This is what I have. This is all I have

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for Harper on due diligence.
MR. McDONALD: Okay.
MR. MIGLIORI: Do you have the rest in there?
BY MR. MIGLIORI:
Q. I want you to, while he's looking, to verify my comment.
This screen shot may have been produced to me earlier. This is literally the entire file that I have for Adolph Harper on due diligence.
If we go through this screen shot -- you are familiar with this screen on the system, correct?
A. Not really.
Q. Not really? Sort of?
A. I know about the screen, but I don't work on it.
Q. All right. Well, you know some of the initials of some of the people that work for you, correct?
A. That work for me, yes.
Q. Yeah.
A. Yes, I do know.

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Q. Do you know some of the initials for people in the verifications department, correct?
A. For some.
Q. Okay. If you look at the second page, there are initials entered by C-U-R-Q-U-I.
Do you know who that references in 2002?
A. I'm sorry, I don't.
Q. How about above that, Y. Mason? Do you know anybody named Y. Mason?
A. No.
Q. On the first page, GS Stewart. Is that familiar to you?
A. No, I'm sorry.
Q. Siebel, are you familiar with that name?
A. I'm sorry. No.
Q. M-D-O-N-O-2. Do you know who that might be?
A. No.
Q. Kunick, K-U-N-I-C-K?

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A. No. I -- I wouldn't tell -- I couldn't tell you who that identifies.
Q. N-M-A-L-N-O. Do you know who that might be?
A. No.
Q. D. Marin. Do you know who that might be referencing?
A. No.
Q. How about D-B-L-A?
A. No.
Q. D. Hagan. Do you know who that is?
A. No.
Q. T-H-A-R-R-2?
A. I don't know what -- who that would identify.
Q. And how about R-S-W-A-I-M? Do you know who that might reference?
A. No.
Q. So you see that this is a -- you understand from your knowledge of the system that this is a computer printout referencing certain due diligence steps related to this particular doctor,

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correct, you understand that much?
A. I understand that this is a printout of customer service part of the system that records some changes that were made in the system or some notes.
Q. Okay. Each one of these notes should have a document associated with it, correct, in the system?
MR. McDONALD: Object to the form.
THE WITNESS: I don't know.
BY MR. MIGLIORI:
Q. As director of regulatory affairs, do you have any knowledge whatsoever of how you maintain your due diligence files?
A. Absolutely.
Q. So tell me how you maintain them for a doctor like Dr. Harper, given that in this litigation, this is what I have to go by?
A. So I couldn't tell you about specifics on Dr. Harper. But if your question is what -- how our system works

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and how we maintain it, I can answer that.
Q. Well, right now I want to know what you can tell me, if anything, about Dr. Harper. This is the --
A. I have no specifics for Dr. Harper.
Q. You can't read any of these abbreviations and tell me that "letter on file pain meds," you don't know what that reference is?
A. I will be guessing.
Q. I don't want you to guess. W/IV S/A X10. That means nothing to you?
A. I know that the W is with. The I is image. I don't recall what V is.
Q. Okay. Is there a document that's associated with that?
A. I don't know.
Q. What is a T-D-D-D letter? I may have said too many Ds.
A. TDDD is an acronym for

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terminal drug distributor -- or dangerous drug distributor.
Q. What does that mean?
A. It's a license -- specific license issued by Ohio.
Q. For what?
A. For practitioners that handle controlled substances, if I remember correctly.
Q. And is there a particular right or privilege that goes along with that Ohio distinction?
A. They implemented that program to provide additional ordering privilege to practitioners, yes.
Q. For what purpose?
A. I will answer your question. May I ask you, the spelling of my right -- my last name is T-E-J-E-D-A.
MR. MIGLIORI: You can make fun of the very kind woman who has been very patiently taking all of your words down. I didn't do it.

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I apologize. But we will fix that.
THE WITNESS: Okay. Thank you. I'm sorry, can you repeat your question?
BY MR. MIGLIORI:
Q. Is there a particular right or privilege that goes along with the Ohio distinction of TDDD?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. What's the purpose of that privilege?
MR. McDONALD: Object to form.
THE WITNESS: I will have to go back to the file to review all the ins and out of the regulation.
BY MR. MIGLIORI:
Q. If you were to read through Exhibit Number 6 and go through any line of Dr. Harper, you'd be able to find out an order number, correct? If you just

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take the categories on top. I'm now back on Exhibit 6.
MR. McDONALD: Oh, different. He's on this one.
THE WITNESS: Exhibit 5?
BY MR. MIGLIORI:
Q. Is it five?
A. Yes.
Q. I'm sorry. I apologize. Five.
So there's an order number?
MR. McDONALD: Why don't you get him to the page again.
BY MR. MIGLIORI:
Q. Pick any -- Dr. Harper. You can do Page 13.
MR. McDONALD: He's on page one is why I said that.
THE WITNESS: Page 12, right?
BY MR. MIGLIORI:
Q. 12 or 13. Either one.
A. Okay.
Q. So this will give you the

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order number, correct?
A. Correct.
Q. What does SO stand for?
A. Sales order.
Q. What is a line reference?
A. I don't know.
Q. Do you know what item number reference is?
A. It's the SKU for the specific product.
Q. Okay. There's a ship number. Is there a separate tracking number for shipment? What is ship?
A. Ship number is the ship to location.
Q. So that's specific to this doctor?
A. That is specific to that doctor.
Q. And the bill is the same number, and not specific to this doctor?
A. The ship is where we're shipping. The bill is where we send the invoices.

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Q. Okay. The drug order class of the controlled schedule?
A. The schedule.
Q. How is that different from the current item master drug class?
A. So the current item master drug class is Schedule II because hydrocodone was rescheduled sometime ago.
Q. So this distinction would be at the time of this order, it was a Schedule III. But currently it's a Schedule II. Is that --
A. Yes. At the time of printing that report, the current would be a Schedule II.
Q. Gotcha. What is a Julian order date?
A. I'm not sure.
Q. Order date and year, that's self-explanatory. Do you know what AT stands for?
A. No. Sorry.
Q. It's the doctor, the doctor's address, and then it has the

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doctor's zip code and then there's a number for a distribution center.
Do you know which distribution center this is on Page 13 that's referenced in all of these orders?
A. On Page 13?
Q. Yep. I assume it's true throughout. But I'm only looking on Page 13 now. The distribution center --
A. So the distribution center, there was a couple of them, right?
Q. I just see the ones that end in 002.
A. 002.
Q. Is that Indianapolis?
A. Indicating Indianapolis.
Q. The quantity shipped is the amount of orders shipped?
A. Quantity shipped will be the amount of selling units.
Q. Okay. What is UOM?
A. Unit of measure.
Q. And what does BT stand for?
A. Bottle.

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Q. Bottle. And then the size would be the number of milligrams per bottle?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. Is that -- what is the 500/BT on the first line of Page 13 for hydrocodone?
A. That would indicate --
Q. Dosage?
A. -- the selling unit size.
Q. So -- which is what for 500/BT?
A. 500 per bottle.
Q. 500 what?
A. In this case tablets.
Q. 500 hydrocodone tablets of a strength of 7.5 codeine and 750 milligrams --
A. Correct.
Q. -- hydrocodone?
MR. McDONALD: Object to the form.

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BY MR. MIGLIORI:
Q. Or of oxy?
MR. McDONALD: Object to the form.
THE WITNESS: So you are looking at Page 3, right?
BY MR. MIGLIORI:
Q. 13.
MR. McDONALD: 13.
THE WITNESS: I mean 13.
BY MR. MIGLIORI:
Q. I'm looking at the very last column under strength?
A. Page 13, okay.
Q. All the way at the end. Strength, when it says 7.5/750 milligrams, when you combine the last two columns it's 500 pills of that dosage strength, correct, for that particular order?
A. For -- yes, for hydrocodone, yes.
Q. Times two bottles, correct?
A. Depending what it says in

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the quantity shipped.
Q. Right. On the first line. So in this particular order, there were two separate orders of 500 pills at the strength 7.5/750, correct?
MR. McDONALD: Object to the form.
THE WITNESS: I'm sorry, what particular order? I thought we were under purchase in general?
BY MR. MIGLIORI:
Q. Page 13. Page 13. Stay on the top line.
A. Okay. Top line.
Q. Just go to the last two columns --
A. Okay.
Q. -- last four columns. There were two bottles sent of 500 pills in each bottle at the strength of 7.5/750 milligrams, correct?
A. That's my understanding.
Q. All right. Exhibit 7 is what we received earlier of 2009 to

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present.
(Document marked for identification as Exhibit Henry Schein-Tejeda-7.)
THE WITNESS: Thank you.
BY MR. MIGLIORI:
Q. If you look on the top of these two documents, it says, "Due diligence documents." Transactional records are not due diligence, are they, in Schein's system?
A. Transactional documents are not due diligence.
Q. You -- you would -- you would agree with me that Exhibit 7 that we're looking at and Exhibit 5 that we were looking at, these are summaries of transactional information, correct? These are opioid orders, the first from 2001 to 2008, the second post January of 2009. These are transactional records, correct?
A. The way I read it.
Q. And so these aren't due

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diligence documents the way the title reads, correct?
MR. McDONALD: Object to the form.
THE WITNESS: Yeah, I don't -- I don't think these are due diligence documents.
BY MR. MIGLIORI:
Q. Okay. And so you'll see that the information is organized the same for Exhibit Number 7. And again, there are a couple more entries on Page 2 for Dr. Harper.
Here he got a total of nine more bottles, 500 pills in each bottle, of the same dosage that we just discussed 7.5/750 milligrams.
Do you see that?
A. Yes, I see it.
Q. And were you aware that he was, by dosage, the largest customer of Henry Schein in Summit County?
A. Right now?
Q. Ever.

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A. At the time?
Q. Were you ever made aware of that?
A. No.
Q. And I showed you Exhibit 6, which I believe was the printout of his due diligence file, or at least the inventory of the computer screen shots of his due diligence file. Is there anything on there that pops out at you to suggest that he might be the largest customer of Henry Schein in Summit County based on dosage units?
A. Do you want me to go over the whole report to see who is the largest? Oh.
Q. No, I'm asking you whether by looking at this particular due diligence printout, if there's anything that pops out at you.
You can see it's the verifications group that produced this document.
But I'm asking, by looking

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at it as director of regulatory affairs, whether anything pops out at you that this is a large volume customer of Henry Schein or --
MR. McDONALD: Object to the form.
THE WITNESS: Again, we don't work with this.
BY MR. MIGLIORI:
Q. I'm sorry, I didn't hear you.
A. So no, we don't work with this.
Q. Okay. So if there were government inquiries about this doctor in 2010, would those records be the verifications department or the regulatory department's obligation to produce?
MR. McDONALD: Object to the form.
THE WITNESS: I don't remember.
BY MR. MIGLIORI:

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Q. Would it be a joint responsibility by 2010?
A. I'm sorry?
Q. Would it be a joint responsibility by 2010?
A. I know it is a joint responsibility now.
Q. It is now?
A. Yes.
Q. So that -- those documents would exist somewhere still if the -- there was such an inquiry?
A. Dr. Harper, if it was inquiry when?
Q. In 2010? Would you still have those records?
A. I don't know. But if I go by the record retention, I wouldn't think so.
Q. Were you aware of the fact that Dr. Harper was sentenced to ten years in prison for illegal prescription --
A. No.

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Q. -- of opioids and controlled substances?
A. No.
Q. Were you aware that prosecutors connect him to eight deaths of opioid-addicted users?
A. No.
Q. The second largest volume by dosage in this county is a Dr. Name Brian Heim. Are you familiar with Dr. Heim?
A. No. I have heard the name, but not familiar with his file.
Q. Have you ever seen any documentation of the DOJ and the DEA asking Henry Schein for his transactional information?
A. I may have seen a copy of it.
Q. What's that?
A. I may have seen a copy of it.
Q. What did you see to your recollection?
A. A copy of a request.

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Q. From whom?
A. I think it was DEA.
Q. And what do you recall the document requesting?
A. Records of -- transaction records I think.
Q. And were you involved -- did -- did you receive that request -- did you see that request at the time?
A. No.
Q. Did you receive it in preparation for today, did you look at it in preparation for today?
A. I think I saw it in one of the meetings.
Q. One of the meetings with counsel to prepare for today's deposition?
A. Mm-hmm.
Q. Yes?
A. Yes.
Q. Where would that request in 2012 be documented, that is, which department would be required under the

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document retention policy to produce that document? Verifications, regulatory, legal or some combination of them?
A. I don't know.
Q. Do you recall the date of the document that you saw where DEA requested this information?
A. No.
Q. Did your counsel share Exhibit Number 8, the due diligence file produced to us of Dr. Heim.
(Document marked for identification as Exhibit Henry Schein-Tejeda-8.)
MR. McDONALD: And there was a supplementation to Dr. Heim produced to you last week.
MR. MIGLIORI: Did we get that?
MR. DUANE: It was noted in relativity to Sunday at 7:00 p.m.
--
MR. McDONALD: I think it was produced to you early last

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week.
MR. MIGLIORI: No, Friday was the production.
MR. McDONALD: Well, we produced stuff to you on Tuesday as well.
MR. MIGLIORI: And you think you produced that to us on Tuesday?
MR. McDONALD: I can find out, Don.
MR. MIGLIORI: No, I --
MR. McDONALD: And we specifically identified for you what we produced. So --
MR. MIGLIORI: No. Whoa, whoa, whoa, whoa. Let's be careful. Let's be careful.
I'm perfectly happy with you creating a record, but you didn't specifically show me, identify and direct me to any due diligence of Dr. Heim.
MR. McDONALD: We told you

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that -- well, I can go back and look at the communications with you. But I talked to your colleague last week.
MR. MIGLIORI: I know you did.
MR. McDONALD: And I told him on the phone exactly what we had produced, including the additional screen shots --
MR. MIGLIORI: Right.
MR. McDONALD: -- for all of them, which you specifically had, an additional production. You got further documentation from my colleague, Scott Jones, in an e-mail to you guys, telling you that there had been additional screen shot of Dr. Heim that identified the inquiry from DOJ or whoever it came from, the government entity, because I don't know off the top of my head right now who it came from, as well as

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we produced to you the supporting documentation of the government inquiry.
MR. MIGLIORI: I don't --
MR. McDONALD: That was sent to you in an e-mail telling you exactly what we had done.
MR. MIGLIORI: That e-mail did not say any of that information about Dr. Heim.
MR. McDONALD: Yeah, it did.
MR. MIGLIORI: No, it didn't. I actually just reviewed it. And I have my -- my counsel here for the sole purpose --
MR. McDONALD: Well, I will -- I will tell you that I was on the phone and I told him that.
MR. MIGLIORI: Well, he is here, and I'll let him explain the position that he --
Do you have that?
MR. DUANE: I think I've got it now. He just sent it to me.

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MR. MIGLIORI: And this is?
MR. McDONALD: There is the additional screen shot for Dr. Heim, and there is the additional due diligence documentation for Dr. Heim.
MR. MIGLIORI: Can you tell when this was produced?
MR. DUANE: I'll check.
MR. McDONALD: And, Don, I told your -- I told your colleagues this, that -- that this -- hang on. That this was brought to our attention as a result of your inquiry from Tina Steffanie-Oak where she said that this isn't -- she wasn't familiar with this file, there should have been something else in the file if there was, in fact, an inquiry from DEA or DOJ.
And so we went and looked, and said we must be miscommunicating what we're asking

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for. And we found this additional screen shot, as well as the DOJ inquiries, and we produced them to you.

But it's a verifications issues, Don. And -- and let me be clear. As I told you before, if there's some -- you can ask --

MR. MIGLIORI: I appreciate it.

MR. McDONALD: Hang on. You can ask him all the questions you want, but if he doesn't know about it and you need to ask Mr. Grey or somebody else, I'll open his deposition for a short period of time to ask about it, we're happy to accomplish that.

There was certainly no intention on our part not to produce this stuff.

MR. MIGLIORI: I'm not -- I have never in the seven depositions I've done, I have

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never accused you of anything untoward. I'm trying to get to the bottom of this. And I can tell you that this was never referenced directly or brought to my attention, and to my knowledge to my law partner's attention, that this screen shot particularly to Heim existed.

I know that I saw the general reference to additional screen shots which was contained in several other screen shots.

This is the first time I'm seeing a screen shot. And I'm looking at it through the database right now.

MR. McDONALD: Okay.

MR. MIGLIORI: So that's -- that's my side of the story.

BY MR. MIGLIORI:

Q. You did review -- the letter from DEA to Henry Schein about Dr. Heim?

A. I remember seeing it.

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Q. But your recollection of that is only from preparation for today, not that you were involved with the inquiry back in 2012, correct?

A. I don't remember.

Q. Did anyone point out to you in showing you this information that Dr. Heim was in fact the second largest customer of Henry Schein in Summit County, Ohio?

A. Not in that context.

Q. And are you aware that Dr. Heim is also in federal prison as a result of convictions on drug-related charges including -- specifically including controlled substances?

A. I wasn't aware.

Q. Are you aware that Dr. Heim's conviction was actually premised on the information about Henry Schein's transactions with Dr. Heim?

MR. McDONALD: Object to the form. Assumes facts not in evidence.

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THE WITNESS: I wasn't aware.

BY MR. MIGLIORI:

Q. In Ohio, in Summit County, the two largest customers of Henry Schein today sit in federal prison, and you haven't looked to see anything about them or Henry Schein's involvement with them as customers?

MR. McDONALD: Object to the form.

THE WITNESS: I'm sorry, what -- what are you -- what are you -- what is your question?

BY MR. MIGLIORI:

Q. As you spent 25 hours preparing for this deposition, I'm asking you whether you did anything yourself within the regulatory affairs department or the verifications department or legal department to familiarize yourself with the two largest customers of Henry Schein in Summit County, Ohio, where this lawsuit is being prosecuted to

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familiarize yourself with Henry Schein's involvement with these two doctors who now sit in federal prison?

MR. McDONALD: Object to the form.

You can answer that question yes or no.

THE WITNESS: Nothing on Dr. Harper, and just like I said, so the document from Dr. Heim.

MR. MIGLIORI: This is the last document and we'll take a break.

(Document marked for identification as Exhibit Henry Schein-Tejeda-9.)

BY MR. MIGLIORI:

Q. Did you see this document in your preparation for today, the letter that you wrote to the field office of DEA about the reporting --

A. This was in --

Q. Let me finish. I'm sorry.

A. Okay.

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Q. Did you review this document in preparation for today, which was your letter to Danna Droz of the Ohio State Board of Pharmacy regarding Schein reporting practices in the state of Ohio?

A. I did review this slide.

Q. It's a November 9, 2012, letter, which is over your name, correct?

A. Correct.

Q. This version that I have is not signed. Did you believe that in fact you sent this to the Ohio Board of Pharmacy?

A. The letter was sent to the Ohio Board of Pharmacy.

Q. And in this letter you tell the Ohio Board of Pharmacy in November of 2012 that Henry Schein was writing for -- quote, "The purpose of this letter is to notify the Ohio Board of Pharmacy of an issue that was recently discovered while conducting a routine internal review of operations. During the course of our internal review, we realized that Henry

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Schein Incorporated has been underreporting sales of controlled substances to Ohio Board of Pharmacy as required by the state's prescription monitoring program (PMP)."

Do you recall sending that letter to the Ohio Board of Pharmacy?

A. Yes.

Q. And do you recall the realization that Henry Schein had been underreporting controlled substances as to Ohio as required by Ohio law?

A. Yes.

Q. Who was the person that discovered this?

A. It was one of our regulatory specialists.

Q. Who was that?

A. I don't remember exactly who it was. I can tell you who I think it was.

Q. What's your best educated guess?

MR. McDONALD: Object to the

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form.

Go ahead.

THE WITNESS: Peter Schmidt.

BY MR. MIGLIORI:

Q. Who?

A. Peter Schmidt.

Q. And did Peter Schmidt -- is he the one that discovered that the reports that you had been sending to Ohio for sales of products that contained tramadol and carisoprodol didn't -- but did not include any other controlled substances, is he the one that made that realization?

MR. McDONALD: Object to the form.

THE WITNESS: So one of our specialists brought it up to our attention.

BY MR. MIGLIORI:

Q. And how many controlled substances were missing from the list of what was required in 2012?

A. I can't tell you that.

Q. Is it dozens?
A. I don't know.
Q. Do you know how many -- how significant in numbers the underreporting was as of November of 2012?
A. I don't remember.
Q. Isn't it true that this underreporting continued for two years before it was discovered?
A. I'm sorry. Say that again?
Q. Isn't it true that this underreporting of controlled substances to the Ohio State Board of Pharmacy had been going on for two years?
A. I'm not sure about the time frame, if it's in the letter.
Q. I'll show you. On the third paragraph, it says, "Please be reassured that there was never any intent to avoid or circumvent the company's obligation under Ohio state law, and as an act of good faith, Henry Schein is providing all controlled substances sales information which was mistakenly omitted for the

previous two years. See enclosures."
A. Okay.
Q. Isn't it true that Henry Schein, for two years, underreported the sale of controlled substances within the state of Ohio, from at least 2010 to 2012?
MR. McDONALD: Object to the form.
THE WITNESS: So I don't know if it was two years that we underreported. I know that we were providing two years of information.
BY MR. MIGLIORI:
Q. Your letter says, unequivocally, "Information which was mistakenly omitted for the previous two years."
Those are your words, correct?
A. Those are my words.
Q. That would include Summit County, Ohio, my client, correct?

A. The state of Ohio.
Q. So at this point in 2010, the oxycodone would have been a controlled substance that would not be reported here, correct?
A. From what the letter says, we only were reporting a couple of drugs.
Q. Hydrocodone would not have been reported, correct?
A. According to the letter.
Q. And you understand that in Ohio, hydrocodone was almost 99 percent of the orders filled from 2006 to 2014 in Summit County? Were you aware of that?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. From Henry Schein?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. Were you aware of that?
A. No, sir, I wasn't.
Q. Were you aware that

Dr. Heim, who was convicted of drug trafficking, had received over 11,000 dosage units of hydrocodone from Henry Schein leading up to his conviction?
MR. McDONALD: Object to the form.
THE WITNESS: I wasn't aware.
BY MR. MIGLIORI:
Q. And that the inquiry that you saw from the DEA about Dr. Heim, that was dated in July of 2012, correct?
A. I don't remember.
Q. I can only show you by a computer screen.
MR. MIGLIORI: Can you pull that back up?
Maybe it will refresh your recollection.
THE WITNESS: Okay.
BY MR. MIGLIORI:
Q. I -- I can show it to you here so we can all see it. And then I can give this to you if you'd like. This

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is -- forgive me for having to do it this way.
Is this what you saw as a --
A. The note?
Q. -- screen shot?
A. The note?
Q. And what I'm looking at here is -- there is an 11 -- 7/11/12, "Please contact Shaun to notify DEA if a control is ordered."
Do you see that?
A. Yes.
Q. It says, "Deleted account." Do you know what that means?
A. Deleted account will mean that the account is not longer current in our system.
Q. You don't know when it was deleted, do you?
A. No.
Q. So you'll see here that these -- this -- if -- if the date of inquiry is in -- is in -- let's see -- July of 2012, if I'm reading this

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correctly, you would agree with me that based on your letter to the Ohio board on November 9, 2012, Exhibit Number 9, that none of those 11,500 hydrocodone orders to Dr. Heim would have been reported to the Ohio Board of Pharmacy based on your letter, correct?
MR. McDONALD: Object to the form.
THE WITNESS: So is the record showing that we were in communication with the DEA and this is a record to the board of pharmacy? I'm just confused how you can -- and what --
BY MR. MIGLIORI:
Q. I -- I can show you several different ways. We can start with the exhibit, I believe it's Exhibit 8.
But if you look at the Henry Schein transactional records from post January 2009 and you turn to Page 3.
A. Okay.
Q. You see all of these orders

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for Dr. Heim?
A. Yes.
Q. And you see these are all hydrocodone orders?
A. Yes.
Q. For Dr. Heim?
A. Mm-hmm, yes.
Q. And these are all in the transactional records of Henry Schein, correct?
A. That is correct.
Q. And they say he is getting -- according to this chart, he is getting, on the first line of his, one bottle of 500 pills, at 10/500 milligrams. And goes down the list. Then he increases to two bottles of 500 pills at 10/500 milligrams.
You see all of those entries, correct?
A. Yes.
Q. These are records maintained by Henry Schein, correct?
A. That is correct.

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Q. And those records were also reported to ARCOS, the federal DEA, correct?
A. Yes, they were.
Q. And the DEA, by looking at those very same records, contacted Henry Schein and said to Henry Schein, there's something unusual about this doctor's ordering, correct?
MR. McDONALD: Object to the form.
THE WITNESS: I don't know.
MR. McDONALD: Form and foundation. Mischaracterizes the evidence.
BY MR. MIGLIORI:
Q. Do you recall the inquiry about the transactional records from DEA that you read?
A. No.
Q. You don't recall the substance of it?
A. No.
Q. When the DEA contacted Henry

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Schein, was the DEA -- did Henry Schein have an appreciation that the DEA, when they asked for transactional record, is looking for suspicious order practices, would that be a reasonable assumption at Henry Schein?

MR. McDONALD: Object to the form.

THE WITNESS: Not really. Henry Schein has had a very good relationship with all the local DEA offices and also the Washington office. The fact that they asked for records doesn't necessarily mean that they are looking for something on the customer.

BY MR. MIGLIORI:

Q. In that month, he was indicted in August, based on the transactional records Henry Schein provided. Were you aware of that?

MR. McDONALD: Object to the form.

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THE WITNESS: No, I wasn't.

BY MR. MIGLIORI:

Q. In August of 2012, these records that you have here, in this exhibit that we're looking at, were never, ever reported to the Ohio Board of Pharmacy as required by Ohio law, correct?

A. They were reported at the time of this letter.

Q. Right. They weren't reported until November of 2012 with two years of unreported transactions, correct?

A. Again, I don't know -- I cannot tell you the time frame of the underreporting.

Q. You -- you write it out and you put a number in. It says, "Mistakenly omitted for the previous two years, see enclosures."

Did you ever look at these enclosures when you reviewed this document?

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A. I would have.

Q. When you prepared for this deposition and you saw this Exhibit Number 9, where you wrote to the Ohio Board of Pharmacy and said we have mistakenly omitted two years of controlled substance reporting to you, did it have attached to it the enclosures that's referenced in your letter to the board of pharmacy?

A. Did I have the enclosures? No, I didn't read the enclosures.

Q. Those two years of -- of omitted reporting to the Ohio Board of Pharmacy, do you know if they still exist somewhere at Henry Schein?

A. I don't know. But, however, I think my point is that we are offering two years of records to the board.

Q. Which --

A. I don't think we're necessarily saying that we omitted two years of records.

Q. Let's go through it

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together. Because the jury can actually see this as we print it. So I -- I don't want there to be any confusion. Or if I've mistaken, you can show me how I'm mistaken.

Do you see where I am where it says in the third paragraph, please?

A. Right.

Q. And we'll read this altogether for the jury's benefit.

"Please be reassured that there was never any intent to avoid or circumvent the company's obligation under Ohio state law, and as an act of good faith, Henry Schein Incorporated is providing all controlled substance sales information which was mistakenly omitted for the previous two years, see enclosures."

Those are your words, correct?

A. Correct.

Q. You haven't seen the enclosures in preparation for today,

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correct, just this letter?
A. Correct.
Q. But at least based on this letter, you provided two years of mistakenly omitted reporting to the Ohio Board of Pharmacy, correct?
A. So we provided two years of information. I can see -- you can read it that way. I can read it a little different too.
Q. Did I read it properly?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. Did I read it properly? Whatever the information is, did I read it properly?
A. I think the fact that I can say over here is that the information that we produced at this time was two years of information.
Q. Okay. Those are -- those are some of the words of the sentence. If you put them all together, it

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references, "All controlled substance sales information which was mistakenly omitted."
That's what you provided, for the previous two years?
A. Right.
Q. You provided all of the controlled substance sales information which was mistakenly omitted for the previous two years.
Do you see that?
A. I see that.
Q. Those are your words?
A. Those are my words.
Q. And that would include, because it's November 2012, all of the hydrocodone that Dr. Heim ordered from Henry Schein, which led to his conviction in federal court, in this federal court in Ohio, correct?
MR. McDONALD: Object to the form.
THE WITNESS: That would include all the information of

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controlled substances that was distributed to Ohio customers for the prior two years.
BY MR. MIGLIORI:
Q. And in those prior two years, as we just saw, hydrocodone was the order -- the only thing that Dr. Heim ordered from Henry Schein in Summit County, correct?
MR. McDONALD: Object to the form.
You've totally mischaracterized this record.
MR. MIGLIORI: I have your objection.
MR. McDONALD: It only -- only as to controlled substance. Be careful.
MR. MIGLIORI: This is a controlled substance letter.
MR. McDONALD: Correct. But you're saying that is all we sold to him. I don't know if we sold him all other kinds of stuff.

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MR. MIGLIORI: With all due respect, that is all I have. And it's all you -- it's what you've given me. So everything that Dr. Heim --
MR. McDONALD: This is -- if you want to ask him if that's all the controlled substances that we sold to him, that's fine. But there's no evidence that that's all we sold to him.
MR. MIGLIORI: All right. In fact that's the only evidence, because that's what you've provided me.
MR. McDONALD: You only asked for evidence of controlled substance.
MR. MIGLIORI: Listen, we don't need to debate this. We don't need to -- I get to ask the questions. And if you have a problem, you state your objection.
MR. McDONALD: You do.

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BY MR. MIGLIORI:
Q. In this exhibit of Dr. Heim's transactions as we've gone through, they are all related to hydrocodone tablets, correct?
A. The report?
Q. Take as much time as you want to look at it.
A. What report are you looking at?
MR. McDONALD: The exhibit.
BY MR. MIGLIORI:
Q. The opioid orders post January 2009.
MR. McDONALD: Tell him what exhibit, Don.
MR. MIGLIORI: He's going to have to tell me because he's got it.
BY MR. MIGLIORI:
Q. What number is that exhibit?
A. That is Tejeda Number 7.
Q. Exhibit Number 7, if you start on Page 3, and you look at all of

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the Brian Heim orders listed there, every one of them on Page 3 and Page 4, is hydrocodone tablets, correct?
A. Yes.
Q. If you go to the order date, every one of them is in 2011 or 2012, correct?
A. Yes.
Q. And they are all before November 9, 2012, correct?
A. That is correct.
Q. And in your letter to Danna Droz from the Ohio State Board of Pharmacy, you specifically inform the Board of Pharmacy in November of 2012 that you did not report any hydrocodone orders from Summit County from -- for the prior two years from November of 2012, correct?
A. I didn't specifically mention hydrocodone in my letter.
Q. You specifically referenced that it was not the two controlled substances that you did report, correct?

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You only reported two controlled substances in those two years.
A. Right.
Q. And neither were hydrocodone, correct?
A. Correct.
Q. So every single pill that you sold to Dr. Heim in Summit County in 2011 and 2012 went unreported to the Ohio Board of Pharmacy, correct?
MR. McDONALD: Object to the form.
THE WITNESS: Up to this point, yes.
MR. MIGLIORI: Thank you. I want to take a break.
THE VIDEOGRAPHER: Going off the record at 12:04 p.m.
- - -
(Lunch break.)
- - -
THE VIDEOGRAPHER: Back on the record at 12:49 p.m.
(Document marked for

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identification as Exhibit Henry Schein-Tejeda-10.)
BY MR. MIGLIORI:
Q. Let me show you Exhibit 10. You had mentioned prior to the break that you had seen an inquiry from DEA about Dr. Heim. And I want to show you Exhibit 10. Is this what you looked at? Is this the inquiry that you were referring to?
A. Yes.
Q. So Scott Brinks from the Drug Enforcement Administration in Cleveland wrote to a Melodie Steele. Who is Melodie Steele to your knowledge?
A. Melodie Steele was a production manager for the Indianapolis distribution center.
Q. So she was at the distribution center itself, correct?
A. Yes, she was.
Q. And so the DEA writes to her and says, "Could you please send me all purchase invoices for controlled

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substances purchased by Dr. Brian Heim from January 1st, 2011, through to the present. Could you also flag your system to give me a call if he places another order for controlled substances."

And then it leaves a phone number.

And based on that e-mail, would it be reasonable for Henry Schein to appreciate the fact that the DEA had a concern about his ordering practices for controlled substances?

MR. McDONALD: Object to the form.

THE WITNESS: So based on the e-mail, it would be reasonable to say that we provided the records that they requested and that if any communication followed up as requested.

BY MR. MIGLIORI:

Q. And so if an order came in after this date in your system, would you expect that order to be filled?

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MR. McDONALD: Object to form.

Go ahead.

THE WITNESS: I would expect a communication to go back to Mr. Brinks.

BY MR. MIGLIORI:

Q. Okay. My question was, would you expect an order for a controlled substance after July 5, 2012, to be filled?

MR. McDONALD: Object to the form. Asked and answered.

THE WITNESS: I cannot answer that because it depends on what the communication with the DEA was.

THE REPORTER: Counsel on the phone have asked that you speak up.

BY MR. MIGLIORI:

Q. The next e-mail up is again Scott Brinks writing to Melodie. This is now six days later saying, "Mrs. Steele,

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could you please update me on the status of the below request? Thanks for your help."

Did you see any communications in your review of documents in preparation for today where Ms. Steele ever responded to this initial request of the DEA to provide controlled substance purchase records for Dr. Heim?

A. Did I see anything besides this e-mail as far as what was provided to the DEA?

Q. Correct. Did you see any other response from Ms. Steele to Scott Brinks of the DEA asking for information on Dr. Heim?

A. No.

Q. Okay. If you go to the first e-mail in the chain, she doesn't ever, based on this string of e-mails, ever respond to the DEA. She writes to Shaun Abreu, Donna Tomaselli and Craig Schiavo and asks, can somebody contact him.

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Do you see that?

A. I see that.

Q. Which department is Donna Tomaselli in?

A. Verifications.

Q. And Craig Schiavo is in regulatory, correct, at this time?

A. Yes, sir.

Q. He reported to you, correct?

A. Yes, sir.

Q. So other than these three e-mails from the DEA, or two from the DEA asking for information about Dr. Heim, have you seen any other correspondence between the DEA and Henry Schein about Dr. Heim and his controlled substance purchase history?

A. Not that I recall.

Q. Did you say not that I recall?

A. Not that I recall.

Q. Do you know who ended up contacting the DEA in response to this inquiry about Dr. Heim?

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A. No.
Q. Put up on the screen off the computer at the break I printed out the screen shot counsel was referring to in his very concise objection.
MR. McDONALD: Thank you.
(Document marked for identification as Exhibit Henry Schein-Tejeda-11.)
BY MR. MIGLIORI:
Q. This is Exhibit 11. This is a screen shot related to Dr. Heim that we received over the -- sometime over the past week.
Did you review this in preparation for today?
A. I remember seeing this screen shot.
Q. Do you know which system this is printed off of?
It actually has on the title "DEA/Proof License Maintenance."
Do you know which database that is?

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A. It's something used by the verifications team.
Q. Okay. Is that separate and apart, to your knowledge, from the due diligence printout that I showed you earlier?
I'll put it back on the screen. I don't remember the exhibit number but...
Is that a separate system from the customer service imaging database?
A. Again, I don't use the system so I couldn't tell you.
Q. Okay. And here there is a reference on Exhibit 11, which says, "Please contact Shaun to notify DEA if a control is ordered." And it's dated July 11, 2012.
Do you see that notation?
A. Yes, sir.
Q. Who would have access to that notation?
Would that be in the

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warehouse system, would that be in the JD Edwards system? What -- how would this trigger the DEA?
A. So that -- that note would be placed by Shaun or somebody in his team, somebody in the verifications team.
Q. And by what process would an order prompt contacting Shaun? If Dr. Heim placed an order, how would it prompt somebody to contact Shaun based on that note, how does that work?
A. I'm not sure what process they put in place at the time. It could simply just regard the license number from the system.
Q. Okay. Do you know if that was done here?
A. I don't know.
Q. If you go back to the due diligence file for Dr. Heim, you'll see that a month and a half later, the due diligence file -- Shaun directed that a new questionnaire be sent to Dr. Heim on August 23, 2012, a month after the DEA

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made this inquiry.
Do you see that?
A. Yes.
Q. The next day that questionnaire was completed and placed in a bin to be approved.
Do you see that?
A. Yes.
Q. And then that was given to Shaun.
Do you know what action was taken at that point in August of 2012 on whether or not to approve Dr. Heim for any further controlled substances?
A. I wouldn't know just by looking at this document.
Q. The last page of this due diligence file has a reference to something called MedPro.
Do you see that?
A. Yes, sir.
Q. Are you familiar with MedPro?
A. I'm familiar with what it

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is.
Q. What do you understand it to be?
A. MedPro is the third party service that we contract with to verify license information.
Q. And this is done at the onboarding, that is, bringing on of a new customer at Schein?
A. This is a live process, because we refresh the data.
Q. You'll notice that the date of the MedPro search is June 3, 2011.
Do you see that?
A. Yes.
Q. Going back to the transactional records of Dr. Heim, the first order processed for hydrocodone is dated August 17, 2011. It's on page --
A. I'm sorry, which one of the two are you --
Q. It's Page 3 of that one there which is exhibit -- what's the number on that, Exhibit 7 --

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A. 7, okay.
Q. Yeah. Page 3.
A. Okay.
Q. The first order is -- order date is August 17, 2011.
Do you see that?
A. Yes.
Q. And it's to fill an order for controlled substances, correct, for hydrocodone, correct?
A. This order was for -- for hydrocodone, correct.
Q. And the way that this information has been organized in this spreadsheet, it's one bottle, 500 doses of 10/500 milligrams, correct?
A. 500 tabs, yes.
Q. And that would have been filled based on the way this information is presented, correct?
A. Based on how the report is presented, yes.
Q. And then all of these subsequent orders on the -- throughout

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the rest of the Page 3, going onto Page 4, are the hydrocodone controlled substance orders that were filled, correct?
A. Correct.
Q. And when you go back to Exhibit 11 that I was showing you under MedPro, when the search was run in June, before the very first order to Dr. Heim was filled, under the MedPro category of disciplinary action it says yes.
Do you see that?
A. Yes.
Q. Where would the follow-up to that disciplinary action be stored in Henry Schein?
A. Today?
Q. Today or in 2011 when this was done.
A. Today's process would be for our teams to review it, and then it will be stored either on their SOM system or on our SOM software.
Q. Is it random which system

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it's on, or is it on both systems?
When you say or, what does that mean?
A. Today's process, it depends on who conducted the review. If regulatory conducted the review, it will be housed in a system called FileMarker, which is what we have implemented and customized to be our software that we use for due diligence files.
Q. That's separate and apart from verifications system?
A. Verifications was integrated to that system late last year. So there are still some separation of records.
Q. 2011, where would disciplinary action -- strike that.
You would agree with me that if a MedPro inquiry in 2011 generated a positive answer for disciplinary action, that under Henry Schein's "know your customer" due diligence system, that that would require follow-up, correct?
MR. McDONALD: Object to the

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form.
THE WITNESS: Under Henry Schein's due diligence process, there would be follow-up.
BY MR. MIGLIORI:
Q. Yes?
A. That would be followed up.
Q. And that information would be followed up in the first instance by verifications or by regulatory?
A. By the department that is conducting the due diligence. So if this was conducted by verifications, it will be verifications.
Q. Okay. For a new client, would that be verifications?
A. For a new account, that most likely will be verifications.
Q. And it's important in a follow-up like this, especially if you're going to go ahead and ship controlled substances to this doctor, that the file be documented that the follow-up has occurred, correct?

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MR. McDONALD: Object to the form.
THE WITNESS: Yes.
BY MR. MIGLIORI:
Q. Are you aware that this doctor in the 1990s was convicted of more than 20 drug trafficking charges, felony charges?
MR. McDONALD: Object to the form.
THE WITNESS: No, I wasn't.
BY MR. MIGLIORI:
Q. Were you aware that this doctor had lost his license to practice medicine for a period of time --
MR. McDONALD: Objection.
BY MR. MIGLIORI:
Q. -- because of that drug trafficking charge?
MR. McDONALD: Object to the form.
THE WITNESS: This indicates that the doctor had a license.
BY MR. MIGLIORI:

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Q. I'm asking you, were you aware that this doctor lost his license for a period of time as a result of drug trafficking charges?
A. No, I wasn't.
Q. I'm going to ask you to assume that this doctor was convicted of felony drug trafficking charges and lost his license for a period of time to practice medicine. Is that something, in the Henry Schein due diligence "know your customer" system that Henry Schein would want to know about before filling the first prescription or order of controlled substances?
A. Our process is that we collect as much information as we can on the -- during the due diligence process.
Q. My question to you is a little more basic. At Henry Schein in 2011, would you want to know if a new customer of yours had a prior felony conviction for more than 20 counts of drug trafficking and lost his medical

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license as a result of that in years prior? Would you want to know that in your "know your customer" obligations to the DEA?
MR. McDONALD: Object to the form.
THE WITNESS: I don't remember how in depth the process was at that point. If your question is just if me personally would like to know, again, we always strive to know as much -- to get as much information of any account as we could.
BY MR. MIGLIORI:
Q. I'm asking, as the director of regulatory affairs, whether or not your system -- whether you would expect your system to follow up on a MedPro disciplinary action that turned out to be more than 20 felony convictions for drug trafficking? Is that what you would expect of your system to produce?
MR. McDONALD: Object to the

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form.
THE WITNESS: Second, I'm not trying to be difficult here, but the system has been enabled, and we always look for continuous improvement. I can't tell you what -- how in depth or what the expectation was from the system at that time.
BY MR. MIGLIORI:
Q. You could not tell me whether or not Henry Schein would want to know whether one of its customers was convicted of drug trafficking charges?
MR. McDONALD: Object to form.
BY MR. MIGLIORI:
Q. As director of regulatory affairs for the company?
MR. McDONALD: Object to the form.
Don, you're just arguing him and asking the same question over and over.

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MR. MIGLIORI: You get about five words. That's enough.
MR. McDONALD: Well, you're being abusive.
MR. MIGLIORI: John --
MR. McDONALD: You know you are.
MR. MIGLIORI: No. In the face of questions, I can follow up on. Please stop.
MR. McDONALD: You know why I'm interrupting you.
MR. MIGLIORI: I know -- just stop.
BY MR. MIGLIORI:
Q. You want her to read back the question?
MR. McDONALD: Yes, please.
(Whereupon, the court reporter read back the requested portion of testimony.)
MR. McDONALD: Object to form.
THE WITNESS: As director of

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regulatory affairs, I believe I already answered your question. We would strive to get as much information as we could from every account.
BY MR. MIGLIORI:
Q. As director of regulatory affairs, if you found out that a new potential customer had more than 20 convictions, felony convictions for drug trafficking, and you were asked to review it at regulatory affairs as to whether or not that is an appropriate customer of Henry Schein in 2011, what would you have concluded?
MR. McDONALD: Objection to form. Improper hypothetical.
THE WITNESS: I would have to review the file to be able to answer your question.
BY MR. MIGLIORI:
Q. So there are some doctors with more than 20 felony convictions for drug trafficking charges that would be an

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appropriate customer for Henry Schein for the ordering of controlled substances?
MR. McDONALD: Object to the form.
THE WITNESS: I didn't say that.
BY MR. MIGLIORI:
Q. That's what I'm trying to find out.
A. I'm saying that I would have to review the file in order to be able for answer -- to give you a -- for answer on what the review was.
Q. Okay. And I'm telling you that the file says that this customer that you have not yet filled a single controlled substance order for, that this customer previously had more than 20 felony convictions for drug trafficking charges. And I'm asking you as the director of regulatory affairs whether or not that is a customer that Henry Schein would have wanted in June -- in June of 2011?

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MR. McDONALD: Object to the form.
THE WITNESS: Do you have the file?
BY MR. MIGLIORI:
Q. Yeah. You have the file. That's the entire file. You're looking at it right now. The MedPro inquiry is the only entry related to the disciplinary action that I'm asking you about.
A. You said that the file says that the doctor was convicted for more than 20 felonies.
Q. No. The federal judge that we're in front of in this case said that.
A. Oh, I'm sorry. I misunderstood.
So what was your question again?
Q. At Henry Schein, would you want as a customer somebody that in your due diligence you found out had been previously convicted of more than 20

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felony counts of drug trafficking charges? Is that a customer Henry Schein would want for its controlled substances business?
MR. McDONALD: Object to the form.
THE WITNESS: The proposed action of approving or disapproving an account is based on the review of the totality of circumstances, not on one or two factors.
Also including issues as of, okay, if the doctor had issues with his license or was convicted of anything, so did he get his license back, why did he get his license back. Was it any review of the medical board, how did the DEA give the license back to the customer.
So we are not there to make a judgment on the doctor or practicing medicine. We're there

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just to look at a set of issues and -- and facts and make a determination on what we see.
If -- if there is any issues with the character of the doctor, I think the DEA and board of pharmacy are -- are the most -- the bodies in the best position to make a judgment on that.
BY MR. MIGLIORI:
Q. So it's -- you just -- I believe you just told me that it's not your position to pass judgment on the customer?
MR. McDONALD: Object to the form. Mischaracterizes testimony.
BY MR. MIGLIORI:
Q. Isn't that the purpose of "know your customer"?
A. Our mission is to put all the information that we can together to make a recommendation as far as the company servicing that account or not.
Q. All that information you

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just referenced, what were the circumstances around the convictions, what did the board of pharmacy decide, what did they -- that's all part of "know your customer," correct?
A. Today it is.
Q. And all of that information would be in your due diligence file, before you took a person with a noted disciplinary action history, you would want all of that information, put it in the file and make a judgment, correct?
MR. McDONALD: Object to the form.
THE WITNESS: We will -- all the information that we collect will be in the due diligence file today.
BY MR. MIGLIORI:
Q. All right. And so, that due diligence file would have to have an explanation that would be sufficient enough for Henry Schein to say that a person with more than 20 felony

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convictions for drug trafficking, that explanation would have to be sufficient and documented in the file for you to give that doctor an order of controlled substances, correct?
A. Yes.
Q. And if it's not in the file, isn't it true, it doesn't exist?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. Isn't it true in the regulatory world of regulatory affairs and compliance, that that which is not documented doesn't exist?
MR. McDONALD: Object to the form.
THE WITNESS: That is to say, that is not necessarily the truth.
BY MR. MIGLIORI:
Q. Have you seen anything in any of your review of this case or what was provided to you this week on

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Dr. Heim, where any follow-up or inquiry about his felony convictions was undertaken, did you see anything?
A. Again, I didn't review the file in completeness.
Q. In fact, Henry Schein doesn't do background checks, criminal background checks, even today, on new customers, correct?
A. Are we supposed to?
Q. My question to you is you don't do it as of today, correct?
A. Background checks on customers, as a general rule, no.
(Document marked for identification as Exhibit Henry Schein-Tejeda-12.)
BY MR. MIGLIORI:
Q. Okay. Let me show you Exhibit 12. You had lots of interaction with a company called Cegedim Dendrite, correct, over the several decades that you would have been at Henry Schein, correct?

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A. Yes, sir.
Q. They are a consultant to Henry Schein, correct?
A. Yes, sir, they have been.
Q. And this Exhibit 12 is one of the Cegedim reports that Henry Schein commissioned, correct?
I can tell you from the metadata that the date of this document is January 28, 2008.
A. 2008, okay.
Q. So this -- you would have been in regulatory affairs at this point, correct?
A. Correct.
Q. And it says in the discussion this is -- Cegedim consulting to you, to your company:
"As a part of Henry Schein's revised suspicious order monitoring system, all new accounts which handle controlled substances will be the subject of a due diligence inquiry."
Did you understand in 2008

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to that -- be the new targeted goal?
A. I know you're reading. I'm just trying to see --
Q. Take your time.
A. -- where you -- where -- what the --
Q. I'm reading fright from the first sentence right now.
A. Okay.
Q. "During the due diligence inquiry, the new account holder will be interviewed by Schein staff over the telephone to determine whether the new account appears to be qualified to handle controlled substances."
That was another point that Cegedim was recommending to Henry Schein, correct, in 2008?
A. Correct.
Q. "Information acquired during the interview may include obvious information such as licenses and registrations."
That's a normal function of

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the verifications department, correct?
A. Correct.
Q. "Additional personal information such as dates of birth, social security numbers, this information will be used for public record inquiries."
That's another recommendation of Cegedim, correct?
A. That is correct.
Q. And then what controlled substances a customer anticipates ordering including quantities. That was a reasonable suggestion of Cegedim in 2008 for new customers, correct?
A. That was a suggestion of Cegedim.
Q. "After the interview, the customer should be provided with a document with information pertaining to controlled substances which addresses basic legal issue" -- "issues such as legitimate medical use."
Do you know if you ever

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implemented that recommendation of Cegedim, that once you bring out a new customer of Henry Schein, you give them some kind of documentation of appropriate legitimate medical use for controlled substances?
A. Yeah. They complete a questionnaire.
Q. Like, this --
A. And they are -- they are asked about it.
Q. This says you would give them a basic legal issues document once you brought them onboard. Did you ever start doing that?
MR. McDONALD: Object to the form.
THE WITNESS: I'm not sure what is your understanding of basic legal issues.
BY MR. MIGLIORI:
Q. Well, this is -- my -- my understanding doesn't matter. This is between you and your consultant.

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A. Okay. So -- so then, my understanding of this is that they were asking us to implement a document that we asked the customer to provide with some information that will allow us to make a determination on the potential use of the drugs.
Q. The customer should be provided with a document with information pertaining to controlled substances. Did you provide a document to your customers with information pertaining to controlled substances?
A. We have a welcome package that we provide to the customers. It contains several pieces that refer to controlled substances.
Q. It might be advisable to have a signed document from the client acknowledging his or her receipt and understanding of the information. Do you make them sign for it, that welcome package?
A. Yes.

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Q. A background investigation should be conducted to determine whether there are convictions or regulatory actions in the client's past that may affect their suitability for ordering controlled substances.
Do you recall in 2008 Cegedim advising you that you should do criminal background checks of your new customers?
A. I don't recall the conversation in 2008. I don't think that this says that we need to do background checks on customers. We need to do background investigations, which is what we implemented.
Q. "A background investigation should be conducted to determine whether there are convictions."
Do you know what convictions are?
A. Yes, sir.
Q. They're criminal, right?
A. Right.

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Q. All right. So you don't know if this recommendation refers to doing background investigation of convictions?
A. Background investigation is not necessarily background checks.
Q. All right. Take the word "checks" out. Did you ever implement the system at Henry Schein from January of 2008 to present where you, Henry Schein, do background investigations to determine whether there are convictions of your customers' or clients' pasts that may affect their suitability?
A. We do an in-depth review of any documents that are publicly available.
Q. Okay. Well, you see that one of the things is to provide the birth date and social security numbers to perform public record inquiries.
Do you see that?
A. Yeah, we don't -- we don't ask for social security numbers.

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Q. So you didn't follow that recommendation of Cegedim?
A. That might be something that we either disagree or we found that it wasn't really a suitable recommendation.
Q. So you don't get social security background information?
A. No.
Q. And so you don't do background checks either, correct?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. Isn't that what you just told me?
A. Yeah.
MR. McDONALD: Object to the form.
THE WITNESS: I -- that's what I said.
BY MR. MIGLIORI:
Q. All right. And you'll agree with me that Cegedim is recommending in 2008 that background investigations for

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criminal convictions be conducted of each new client?
A. I agree to that, and I also said that we implemented that.
Q. You did?
A. Yes.
Q. Show me where in Brian Heim's entire file you see an indication of criminal background checks?
A. I don't know if I have the entire file in front of me.
Q. I can represent to you you do, because this is all I have. This is what was provided to me. This is my chance to ask you about it. So this is all I have. I'll give you as much time as you want.
A. Okay.
Q. You can even count it against my time.
A. I'm sorry?
Q. You can take as much time as you'd like.
MR. McDONALD: Well, for the

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record, that is not the entire file. There's the other screen shot as well as the information that we produced to you about the DEA inquiry.
MR. MIGLIORI: Those are both in front of you.
One is -- all three of those documents are in front of him.
MR. McDONALD: No, they're not.
MR. MIGLIORI: What?
MR. McDONALD: No, they're not.
MR. MIGLIORI: I just gave him the DEA inquiry, the screen shot. They're Exhibits 11 and 12.
MR. McDONALD: There's more to the DEA inquiry than that one e-mail that you cited.
MR. MIGLIORI: Maybe that's in tomorrow's production.
MR. McDONALD: No, Don. You know, I'll tell you the Bates

numbers if you want.
MR. MIGLIORI: I would love it.
MR. McDONALD: Sure.
MR. MIGLIORI: You can't be shocked at my frustration with getting a production in April on this. You can't be. And I haven't given you any gripe about it. But don't act exasperated.
MR. McDONALD: I am not exasperated. I had a conversation with your colleague --
MR. MIGLIORI: It doesn't matter. It was produced in April.
MR. McDONALD: And you know why?
MR. MIGLIORI: It was requested in August. It's been four days.
MR. McDONALD: 648727 to 648728.
MR. MIGLIORI: Is that a criminal background check?

MR. McDONALD: I don't think there's a criminal background check in there. But that's the rest of the DEA file. You guys have it.
BY MR. MIGLIORI:
Q. Do you see any reference in the exhibit that you have or in anything that you were shown yesterday about Dr. Heim to a criminal background check, including the documents produced to us last week that you reviewed?
A. I don't see any notes under review of the information provided by Dr. Heim.
Q. So in 2008 when Cegedim recommended background investigations to determine whether there are convictions that may affect the suitability for ordering controlled substances, at least in Dr. Heim's case, that was not done based on the records we have in front of us, correct?
A. Based on what I have in

front of me, I cannot say if it was done or not.
Q. There's no evidence of it in any of the documents that you've seen today or yesterday in preparation, correct?
A. There's no evidence that it was done. I would suggest that there is no evidence that it wasn't done either.
Q. Well, is that how the Henry Schein due diligence system works?
A. No, sir.
Q. The absence of evidence is sufficient to go ahead and fill orders of controlled substances to doctors with felony convictions?
A. No, sir. The Henry Schein due diligence files are very complete and inclusive of any write-up of the recommendation of whoever review the file.
Q. But Henry Schein due diligence records were not complete in 2011, were they, sir?

A. It has been a work in progress. There has been a process, that as we learn, we have implemented best practices. There has been something that we would have hoped that we'd get some guidance from the DEA to see what needed to be done and what needed to be implemented.
Q. Are you saying that it is the DEA that failed to get due diligence on 60 percent of the 40,000 customers that you had in 2013? Is that the DEA's fault?
MR. McDONALD: Object to the form.
THE WITNESS: I'm saying that the DEA failed to provide proper instructions to industry on how to -- what the expectations were and how to perform due diligence.
BY MR. MIGLIORI:
Q. You didn't, in 2013, have compliance with your own due diligence

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system, correct?
A. Say that again.
MR. McDONALD: Object to form.
BY MR. MIGLIORI:
Q. Tiffany Steffanie-Oak reported to you in 2013, that 60 percent of your customers had no due diligence, and the other 40 percent had varying degrees of due diligence in their files, based on Henry Schein's "know your customer" system, correct?
A. Again, I already told you that it was a process. It was over 20,000 customers that needed to be worked on, and it took some time to get there.
Q. Maybe you can answer my question. My question to you was, more than 60 percent of your customers in 2013 had no due diligence in their files based on the due diligence system that Henry Schein had in place, correct?
A. I couldn't tell you what we had, what we had in file in 2013. I can

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tell you that on or about 2015, we make sure that all the customers that were ordering controlled substances would have a due diligence file.
Q. Your due diligence was finally complete by 2015?
A. Our due diligence process was close to the fact that if a customer ordered a controlled substance, they will -- and they didn't have a due diligence file, they will be required to provide information so we can build a due diligence file.
(Document marked for identification as Exhibit Henry Schein-Tejeda-13.)
BY MR. MIGLIORI:
Q. Exhibit 13. This is your e-mail to Jeff Peacock, correct?
A. Okay.
Q. Jeff Peacock is your boss, correct?
A. Yes, sir.
Q. This is August of 2013,

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correct?
A. August of 2013, yes.
Q. Bullet point Number 1. All right, let me start with the top.
"Jeff, here are the areas that I think represent the highest regulatory risk for the company at this point, August of 2013."
Do you recall writing this?
A. I don't.
Q. "One, DEA customer due diligence. I have to agree with Tina that this is the area of most risk. A couple of additional pieces to consider on this issue."
Do you remember customer due diligence being a highest degree of risk with respect to DEA compliance?
A. I remembered something that we were always on our top priority to complete.
Q. Right. And approximately number -- "Approximate number of new accounts opened in a daily basis is 150.

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From to those, an appropriate 4 to 5 percent will place an order for controlled substances. Using the 4 percent that equates to 1,560 new accounts ordering controlled substances each year."
Do you recall performing that analysis?
A. I don't recall, but I certainly did.
Q. "Tina based her analysis on 2012 numbers. I learned from a recent conversation with Shaun Abreu, verifications manager, that the number of active accounts ordering controlled substances products is now closer to 40,000 and that we have completed due diligence for about 13,000 accounts."
Do you recall that 27,000 accounts, as of the writing of this document in August of 2013, had no due diligence in them?
A. They didn't have a complete due diligence file, yeah.

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Q. 27,000 accounts for customers that were expected to order controlled substance had no due diligence, correct?
A. Correct.
Q. And based on the estimates then, you didn't expect to be caught up in this process for another three years, correct?
A. That's what it says, yes.
Q. Do you think you may have gotten it done in 2015, instead of 2016, correct?
A. Yeah, the -- the completion of due diligence file for all accounts was done around that time. However, we put the process in place to ensure that if an account doesn't have a due diligence on file and places an order, then we will be required to complete one.
Q. But that --
A. That was on or about 2015.
Q. Let's explore that.
So there are -- through

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2013, there are 27,000 doctors and prescriber -- and -- and facilities ordering controlled substances from Henry Schein without the due diligence required from DEA to know your customer, correct?
MR. McDONALD: Object to the form.
THE WITNESS: Without the complete due diligence file.
BY MR. MIGLIORI:
Q. No. The 27,000 represents those that had no due diligence. The 13,000 represents due diligence of varying degrees, correct?
MR. McDONALD: Object to form.
BY MR. MIGLIORI:
Q. Do you remember that from Tina?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. Do you remember Tina telling you that?

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A. I -- listen, it's in writing. However, I cannot remember the conversations around it.
Q. I'll show you her presentation. This is Exhibit 14.
(Document marked for identification as Exhibit Henry Schein-Tejeda-14.)
BY MR. MIGLIORI:
Q. Exhibit 14, this is Tina Steffanie-Oak. She reported to you, correct?
A. Yes, she did.
Q. And this is dated November of 2013. So this is actually after your e-mail here.
A. Okay.
Q. If you turn to the second page of it.
A. Okay.
Q. "Opportunity/issue. Are we in substantial compliance with DEA suspicious order monitoring 'know your customer' regulations?

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"Answer: We do not have 'know your customer' due diligence for approximately 60 percent of our customers. Remaining 40 percent has varying degrees of due diligence, (files are not consistent)."
Do you recall her telling you that?
A. I vaguely recall this presentation.
Q. And what we know from other distributor DEA civil actions and recent DEA sponsored conferences, the fact that a customer has a valid DEA registration is not enough due diligence to know your customer.
You appreciated that in 2013, correct?
A. Correct.
Q. You appreciated that in 2008, correct?
A. Correct.
Q. In fact, in 2008 you had another Dendrite review of your systems.

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It's the last document, of course. Exhibit Number 15.
(Document marked for identification as Exhibit Henry Schein-Tejeda-15.)
BY MR. MIGLIORI:
Q. This one is dated December 16, 2009.
A. Okay.
Q. This is a Schein suspicious order monitoring procedural review.
At this point you are in regulatory affairs, correct?
A. This was dated 2009, yes.
Q. And if you go to conclusions on Page 4 of the document, these are my highlights on the screen.
A. Okay.
Q. And if you look at the big box here, Cegedim, under its conclusions in 2009 says, "New accounts are opened without sufficient due diligence investigations or inquiries. For the most part, new accounts are opened based

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upon a verification of the customer's DEA number which is not considered adequate by the DEA."
You appreciated that in 2009, correct?
A. Yes.
Q. And Cegedim was telling you that what you were doing was not sufficient for DEA compliance, correct?
A. Cegedim was giving their recommendation for best practices.
Q. And that included that what you were doing was noncompliant with DEA expectations on know your customer, correct?
MR. McDONALD: Object to the form.
THE WITNESS: So that will be their opinion and their interpretation. We were -- absolutely took that very seriously and immediately implemented processes to make sure that by risk -- risk review, we

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completed due diligence files for all the accounts that we have.
BY MR. MIGLIORI:
Q. This report and recommendation is dated December 16, 2009.
A. Okay.
Q. You said you promptly responded to this recommendation?
A. Yes, we did.
Q. In 2013, according to your employee, 60 percent of those files had nothing in them for due diligence, correct?
A. Correct.
Q. Is that prompt response to the new onboarding due diligence "know your customer" process at Henry Schein?
MR. McDONALD: Object to the form.
THE WITNESS: Yeah. We set processes to look at the accounts based on risk level. We prioritize it that way. We

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prioritize new accounts.
So if you are telling me you are expecting me to say from this day till tomorrow, we wouldn't be expected to have due diligence accounts for every customer, well, that's a little unrealistic.
BY MR. MIGLIORI:
Q. You were told in 2009 that what you were doing to open a new account for due diligence did not comply with DEA regulations, correct?
A. Correct.
Q. In 2013, Tina told you that 60 percent of your files had no due diligence, correct?
A. Correct.
Q. 2013, you wrote to your boss, Jeff Peacock, and you said 27,000 of our files have no due diligence, correct? Files that are expected controlled substance ordering practitioners, correct?
MR. McDONALD: Object to

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form. Mischaracterizes the document.
MR. MIGLIORI: It's on the screen right here.
BY MR. MIGLIORI:
Q. You write to Jeff Peacock, in August of 2013, and you say that you learned from these conversations that the number of active accounts ordering controlled substance products is now closer to 40,000 and that we have completed due diligence for about 13,000; therefore, the gap is now 27,000 accounts.
A. That's what is written, yes.
Q. So this is now four years after the Cegedim recommendation and notification to Henry Schein that you aren't doing proper due diligence for new customers, correct?
MR. McDONALD: Object to the form.
THE WITNESS: Like I said, we were working on completing all

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these files for all these tens of thousands of customers, and we were doing it in a very organized fashion to make sure that we limit any risk, or minimize any risk, and we in fact completed that before -- you know, like, two years after that. So to me, if 47 thousand accounts were still left as a gap at this point, we did complete 27,000 accounts in about two years.
BY MR. MIGLIORI:
Q. So by 2015, all of your files were finally compliant with DEA regulations and due diligence, correct?
A. By 2015, we have closed the gap. We have closed the gap in a way that if we had any account that didn't have any due diligence file, we wouldn't ship any controlled substance to that account until the due diligence file was completed.
Q. Where does it say that? You

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show me in any document that you've seen over the 26 hours of preparation that these 27,000 client -- customers of yours didn't get controlled substances?
MR. McDONALD: Object to the form. Don't argue with him, okay?
MR. MIGLIORI: I'm not.
MR. McDONALD: Yeah, you are.
MR. MIGLIORI: No, I'm asking him a question. Where are the --
MR. McDONALD: Come on, Don. Really. Ask a question.
BY MR. MIGLIORI:
Q. Where's a -- where's a document that shows that these 27,000 customers were put on a pended or suspended status?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. Where is that?
MR. McDONALD: Object to the

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form.
It's not his job to produce documents to you.
BY MR. MIGLIORI:
Q. Go ahead. Have you seen a document like that?
A. Yes.
Q. You're going to testify under oath -- and you understand the significance of being under oath, right?
A. Right.
Q. You're going to testify under oath that these 27,000 customers of Henry Schein were not given any controlled substances until their files were caught up?
A. That's not what I'm saying. That's totally not what I'm saying.
I'm saying that by 2015, we have closed the gap. And that's what I'm saying I have seen documentation on that.
Q. Is that --
A. I have e-mail correspondence or e-mail correspondence that exists on

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that.
Q. Okay. As of 2015, the gap was closed and those customers now had what was sufficient due diligence in their files based on DEA expectations or compliance, correct?
A. They did have due diligence files based on DEA -- our interpretation of DEA expectations, because DEA never provided any instruction on what was the due diligence file to have.
Q. Cegedim did. In 2009, Cegedim, in this exhibit that I'm showing you, Exhibit Number 15, told you what you needed in every file, correct?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. Not DEA, Cegedim, correct?
MR. McDONALD: Object to the form.
THE WITNESS: We did communicate --
BY MR. MIGLIORI:

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Q. Just answer my question, and I'll give you all the opportunity to elaborate.
My question to you is, in 2009, Cegedim told you what you needed to do to be compliant with DEA, and that was more than just verifying DEA registration, correct?
MR. McDONALD: Objection.
BY MR. MIGLIORI:
Q. That's what Exhibit 15 shows, correct?
MR. McDONALD: Object to the form.
THE WITNESS: Where does it say that?
BY MR. MIGLIORI:
Q. I can read it to you again if you'd like.
A. Yeah.
Q. "New accounts are opened without sufficient due diligence investigations/inquiries."
In December of 2009, Cegedim

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told Henry Schein that, correct?
A. Yes.
Q. "For the most part, new accounts are opened based upon a verification of the customer's DEA number, which is not considered adequate by the DEA."
Cegedim in December of 2009 told Henry Schein that, correct?
A. They did write in the memo, yes.
Q. "Correspondence regarding the prospective customer's previous history of using controlled substances, office practice rules, general practice expectations should be completed prior to opening a new account."
Cegedim in December of 2009 told Henry Schein that, correct?
A. Correct.
Q. "A compliance agreement form should be developed and included in the new account opening process."
Cegedim told Henry Schein

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they should do that, correct?
A. Correct.
Q. "The use of MedPro inquiries should be expanded for all controlled substance accounts and not for the limited number of states that require the check."
Cegedim was telling Henry Schein that that MedPro inquiry that we just saw in Dr. Heim's file, should be used across the entire company, not just where required by certain states, correct?
MR. McDONALD: Object to the form.
THE WITNESS: We always use it. Yeah, correct.
BY MR. MIGLIORI:
Q. This is 2009. They're telling you what DEA's expectations are clearly and you paid -- Henry Schein paid for this consultancy, correct?
A. And we implemented that.
Q. Henry Schein paid for this

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information from Cegedim, correct?
A. Yes.
Q. And you implemented it and you got around to finishing it in 2015, correct?
A. Correct.
Q. But by August and November of 2013, you were only 40 percent, not even quite 40 percent of the way there, correct?
A. Correct.
Q. Now I've made a mess.
(Document marked for identification as Exhibit Henry Schein-Tejeda-16.)
BY MR. MIGLIORI:
Q. This is Exhibit 16. Exhibit 16 is an e-mail from Craig Schiavo. You said that he worked for you, correct?
A. Yes, he did.
Q. And it's to you and to Michael DiBello. Michael DiBello preceded Jeff Peacock, correct?

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A. That is correct.
Q. He was your boss at this time?
A. That's correct.
Q. And Craig sent to you by e-mail this PowerPoint presentation. It's called "Draft SOM System." And this is again dated March 5th of 2011.
Do you see that?
A. I'm sorry.
Q. It's on the -- it's on the e-mail. March 5, 2011.
A. March 5, 2011. Okay.
Q. Do you recall getting this?
A. I don't.
Q. Okay. Do you recall reviewing this in preparation for today?
A. I don't remember reviewing it in preparation for this meeting.
Q. So I'm going to direct your attention to the page. There's no numbers on this so I apologize, but...
A. Okay.
Q. New account setup, system

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enhancement in process. It's about halfway through.
This is the in-process system with respect to customer questionnaire for every customer ordering controlled substances.
Do you see that?
A. Yes.
Q. So part of this new account setup was to, in fact -- this is now two years later -- implement what Cegedim has been saying, that you should be getting due diligence of every new customer for the file, correct?
MR. McDONALD: Object to the form.
THE WITNESS: Are you saying that we are implementing it at this point?
BY MR. MIGLIORI:
Q. I'm not saying anything. I'm reading the document. I don't -- I don't -- I don't know.
It says, "New account setup,

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customer questionnaire for every customer ordering controlled substances. Information such as license and registrations, phone number, address, practice type, what controlled substances."
That's part of the new account setup as of -- as drafted in this proposal in March of 2011.
Do you see that?
MR. McDONALD: Object to the form.
THE WITNESS: Yes. So again, the -- the process in how we get the information changed throughout the year.
So over here, and I see that we are now asking for a questionnaire for every customer ordering controlled substances.
BY MR. MIGLIORI:
Q. That's what was going to be -- and if you turn two more pages down. That process, it's under "Standard

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Operating Procedures/Policies."
One more page. It's on the screen if you want to see what it looks like.
"This new account setup, (to be implemented in 2011)."
A. Mm-hmm.
Q. You agree with me that's more than two years after Cegedim recommended it in Exhibit Number 15, correct?
MR. McDONALD: Object to the form.
THE WITNESS: It is stating what, I'm sorry?
BY MR. MIGLIORI:
Q. This new account setup with the -- getting out the new questionnaires for due diligence, that was recommended in 2009 by Cegedim.
In March of 2011, your presentation shows that that's something that was going to be implemented in 2011, correct?

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A. Sending each customer our due diligence questionnaire.
Q. Right.
A. I'm making a difference here. Because I don't know if your records show that we had a due diligence questionnaire prior to that.
Q. Yeah.
A. Okay.
Q. Do you see this, the new to-be-implemented system? Do you recall implementing the new system of sending customer due diligence questionnaires for new customers beginning in 2011?
MR. McDONALD: Object to the form.
THE WITNESS: Again, what it says is sending each customer our due diligence questionnaire.
BY MR. MIGLIORI:
Q. Right. To be implemented in 2011.
A. Right.
Q. That's what it says,

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correct?
MR. McDONALD: Object to the form.
THE WITNESS: Which could --
MR. McDONALD: Go ahead.
THE WITNESS: Which is a modification of this process. But that doesn't mean that questionnaires didn't exist prior to that.
BY MR. MIGLIORI:
Q. Okay. Two years after this document, 60 percent of your files have no due diligence, correct?
MR. McDONALD: Object to the form.
THE WITNESS: What was the date?
BY MR. MIGLIORI:
Q. 2011, March of 2011.
A. I just said that that presentation was 2013, so...
Q. You already -- you had an August 2013 e-mail saying that 27,000

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files didn't have due diligence, correct, two years later?
A. Correct.
Q. Now, I'll try to --
MR. McDONALD: Are you done with this?
MR. MIGLIORI: Yeah.
BY MR. MIGLIORI:
Q. I asked you a question earlier about something --
MR. McDONALD: Hang on -- hold on a second. I'm just trying to put this exhibit back together --
MR. MIGLIORI: Sorry.
MR. McDONALD: -- that was paper-clipped before it gets lost.
Thanks. Go ahead.
BY MR. MIGLIORI:
Q. I asked you some questions about transaction reports. I'm going to show you something now that is produced in the same format, but I just want to understand, see if you understand what

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this may be, so I can better understand it.
(Document marked for identification as Exhibit Henry Schein-Tejeda-17.)
BY MR. MIGLIORI:
Q. This is Exhibit Number 17. And again it says, "Due diligence documents, Henry Schein" -- I'm sorry, "Schein Summit County customers canceled orders."
Like the previous spreadsheets, this is a report generated upon request, correct? That is, this isn't maintained in the ordinary course of business like this, correct?
A. Yes. And I just want to clarify. You are telling me that this is a different report than the ones that --
Q. Yeah.
A. -- we already saw. Okay.
Q. Correct. This one says canceled orders on top. But it has otherwise the exact same title as the

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prior.
A. Okay.
Q. Do you see that?
A. Yes, I see that.
Q. So I assume, based on looking at this, that this isn't maintained at Henry Schein in this form, correct?
A. Correct.
Q. Somebody said, I need you to get me these 15, 20 fields of information and import them into a spreadsheet. That's how this would be generated, correct?
A. Yes, sir.
Q. And do you know from which database this would be generated?
A. No, not exactly.
Q. Okay. The -- is there something in the ordinary course of business that you know as the canceled orders report?
A. The canceled order report?
Q. That's not a term you're

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familiar with, is it?
A. No.
Q. Okay. And so I just want to again try to understand the columns.
There's an order number. It says type. What is a CM versus an SO for type?
A. So it's -- it's a comment to what we use. It would mean credit memo.
Q. Credit memo?
A. Mm-hmm.
Q. What does that mean, like a chargeback?
A. Like a credit to the customer, if it was a return.
Q. Oh I see. Okay.
The line, what did we say that was?
A. I'm sorry?
Q. What is line, the third column?
A. Oh, line, that's one that I really can't tell you what --
Q. Okay.

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A. -- what it was.
Q. Item, is that a base code? What -- what's the item number?
A. The -- the S-K-U.
Q. S-K-U?
Description. And the shipping number and the billing number.
A. Right.
Q. So it seems like the exact -- for the most part, the exact same columns as the transactional report, except it's got an additional column called "Pend."
Do you see that, on the very last column?
A. Yes.
Q. So is it fair to say that somebody said run that report but add the column of pend, is that what you would interpret -- imagine this report being generated --
MR. McDONALD: Objection.
BY MR. MIGLIORI:
Q. -- based on your knowledge

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of the databases and the record retention?
MR. McDONALD: Object to the form. If you know, tell him, but don't guess.
BY MR. MIGLIORI:
Q. We can go back to the other charts too. I mean, I think the columns are all exactly the same, except some -- except there's an added column of "pend."
MR. McDONALD: There's --
MR. MIGLIORI: Hmm?
MR. McDONALD: P is on one of them too.
MR. MIGLIORI: It is? I appreciate that.
BY MR. MIGLIORI:
Q. So going back to the prior chart, I think this one is seven.
A. Which one?
Q. Seven. The post 2009.
MR. McDONALD: That's it.
BY MR. MIGLIORI:
Q. Is that right?

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When we were talking about Dr. Shein -- Dr. Heim, three of his orders were pended but released.
Do you see that?
MR. McDONALD: Well, and let me state for the record, as we've told you, the company is not verifying the reliability of this information.
MR. MIGLIORI: Yeah. We have other testimony from Shaun Abreu that they found pended orders.
BY MR. MIGLIORI:
Q. And it may be unreliable to your company, this information, but this is the only information I have of your company. So maybe you can help me understand it.
A. Okay.
Q. Three of these orders, according to Exhibit 7, based on the information that your company provided to me, were pended orders of Dr. Schein.

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MR. McDONALD: Dr. Heim.
BY MR. MIGLIORI:
Q. Dr. Heim, but all of them were actually filled. And Shaun Abreu testified to that earlier in the litigation.
So the P there, as I understand it, is for pended, right? Is that how you understand it?
MR. McDONALD: If you know, tell him.
THE WITNESS: I don't know. I will be assuming.
BY MR. MIGLIORI:
Q. Okay. Well, the column is called pend and the only letter in any of the columns is P. So is it a reasonable assumption that those were pended orders?
A. Again, I will be assuming that that's what it is.
Q. Okay. Well, if we go back to the exhibit that I just showed you, Exhibit Number 17, these are so-called canceled orders. And some of them have a

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P next to them, not many. But there are some.
If you go to page that ends in 726.
MR. McDONALD: They're all 726, Don?
MR. MIGLIORI: What?
MR. McDONALD: They're all 726.
MR. MIGLIORI: Oh, are they?
MR. McDONALD: It's an electronic file.
BY MR. MIGLIORI:
Q. All right. If you go to one of the ones that's 726, towards the end, about four pages towards the end.
A. Number 20.
Q. No, actually Page 19. There's a different number.
A. Okay.
MR. McDONALD: 19. Page 726.
BY MR. MIGLIORI:
Q. Page 19. Do you see the P's

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there?
A. Yes, sir.
Q. So those would be pended orders for those particular doctors. And I think one is lorazepam. One is testosterone.
Do you see that? Is --
A. Testosterone. Lorazepam. Yes.
Q. Are these all controlled substance?
A. Yes, they're all controlled substances.
Q. They are not Schedule II substances, right? Lorazepam and testosterone?
A. Lorazepam is Schedule IV. Testosterone is a Schedule III.
Q. Okay. Is there any way in looking at this spreadsheet -- you would agree with me, again, that this isn't a -- these aren't due diligence documents, that that's just a mislabeling, correct?

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A. This is just a report.
MR. McDONALD: Objection to form.
BY MR. MIGLIORI:
Q. Just a report.
And it's not a typical business report that you would get regularly in the course of business, right, this is something called canceled orders that isn't a part of your standard operating procedures, correct?
A. This report is not part of our -- okay.
Q. Is there anything in looking at this report of canceled orders that denotes to you that the order was canceled at the customer's request versus by some process of due diligence?
A. Not on this report, not to me. But again, there are a couple of columns that I don't really know what the information is about.
Q. Okay. And that would be like the line code and things like that?

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A. Line and AT.
Q. What was the other one? AT?
A. AT. Yeah.
Q. You have no idea what AT stands for?
A. No. I'm sorry.
Q. AT did exist in the transactional reports, Exhibit 7.
And UOM, did I ask you what that stands for?
A. Yeah. That one I understand to be unit of measure.
Q. Okay. Unit of measure. Oh, that's right.
So with this list of canceled orders, you have -- you have no way of telling me, as you sit here today, why any one of these orders may have been canceled, correct?
A. Not -- no, I couldn't tell you.
Q. And based on your review of this, this isn't limited to opioids or Schedule II drugs. This is all

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controlled substances of all schedules, correct? Maybe not Schedule I. But this isn't limited to Schedule II drugs, correct?
A. Schedule II to V.
Q. Okay. Clear as mud.
MR. McDONALD: I'll let that go. We've been going about an hour and 20 when you get to a point.
MR. MIGLIORI: I think this could very reasonably be the end. Let me -- this stack. So why don't we take a break and I'll make sure.
THE VIDEOGRAPHER: Going off the record at 2:06 p.m.
(Short break.)
THE VIDEOGRAPHER: Back on the record at 2:22 p.m.
BY MR. MIGLIORI:
Q. I want to show you Exhibit 18.
(Document marked for

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identification as Exhibit Henry Schein-Tejeda-18.)
BY MR. MIGLIORI:
Q. This is an e-mail which you sent to your then-supervisor Michael DiBello, regarding -- this is February of 2008. And it's regarding an HDMA meeting.
What is the HDMA, or what was it then?
A. Healthcare Distribution Management Association, I believe it stands for.
Q. I notice in your curriculum vitae and some other places, that you were -- you yourself were fairly involved with the HDMA as a representative of Henry Schein; is that correct?
A. Yes, sir.
Q. Do you recall how often you attended HDMA meetings or conferences?
A. In person, maybe twice a year. Conference calls, maybe another few times a year.

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Q. Okay. And does that go back to 2006 or two thousand -- whenever you moved over to regulatory? When did you first start getting involved with the HDMA?
A. I think it might have been around that time.
Q. Around 2006?
A. Around 2006, yeah.
Q. Did you serve on any committees for the HDMA?
A. As a participant, yes.
Q. Which committees?
A. Regulatory affairs committee, which now my team actually participates in now, and I guess very -- the more infrequent there is a policy -- a public policy committee that we participate probably once every so often. Not even every year.
Q. Do you remember any interactions with the HDMA where the DEA was presenting or giving best practice presentations?

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A. Yes.
Q. Do you recall who from the DEA that you've seen present to HDMA?
A. So the -- the most recent one, his name is Keith Brown, I think deputy administrator.
Q. Okay.
A. And he was actually very friendly to the industry. He just stated that -- that they don't like the reports that they receive everyday with -- that our computer system sends everyday. That they much rather prefer for us to complete our due diligence and then send the report.
And he also stated that the final rule that we have been waiting for years may actually be something that is material, is here.
Q. Okay. A friend of industry, is that what you called him?
A. He was --
MR. McDONALD: Object to form.

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BY MR. MIGLIORI:
Q. Go ahead.
A. He said that -- that they -- they understand that they have to do better in customer service, whatever that means.
Q. Customer service as in the distributors are the customer in that context, right?
A. The audience was manufacturers and distributors.
Q. Okay. Do you recall any presentations by a guy named Kyle Wright from headquarters in the distributor initiative?
A. Not really. I mean I have spoken with many people in DEA.
Q. Do you recall ever meeting with the DEA on behalf of Henry Schein for what was called a distributor initiative?
A. Yes.
Q. Were you part of that meeting?

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A. Yes, sir.
Q. Do you recall when it was?
A. It was in 2009.
Q. And who -- was -- was that the, to your knowledge, the first meeting with DEA for the DEA initiative program?
A. To my knowledge, that was the only meeting.
Q. Okay. Who else was there from Schein?
A. I believe it was Len David. Mike DiBello, Craig Schiavo and myself.
Q. And do you recall seeing a presentation about internet pharmacies and suspicious order monitoring?
A. They did have material. I don't really recall what it was about. I do recall that they have prepared some material based on our ARCOS reporting.
Q. Okay. That was my next question. So did they present to you some of your own reporting data from ARCOS that they thought was exemplary or illustrative of certain ordering trends?

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A. Yeah, I think the way they characterize it, they wanted to review some customer orders with us.
Q. And do you recall what those orders showed, or they -- they believed they showed?
A. I think it was information out of our ARCOS report. So it would have identified the customer, their DEA registration and transaction information.
Q. And isn't it true that the purpose of showing you those particular examples was to show you where they believed that there was irregular ordering patterns for that particular surgeon that they thought were appropriate for follow-up?
MR. McDONALD: Object to the form.
THE WITNESS: So, I apologize. I don't really remember what did they say about this orders.
I do remember that they were

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happy that we actually meet about these customers and we have taken care of any due diligence issues that we had with those accounts.
BY MR. MIGLIORI:
Q. Okay. So as you recall, the DEA wanted to show you some information from your ARCOS data that raised issues or questions for them. And you were able to report back to them that you had actually addressed those issues already.
Is that what you generally recall?
A. Yes.
Q. All right. Do you recall anything else from that distributor initiative meeting?
A. I recall that the -- the main person traveled from Washington. Then it was the -- a couple of ranking officers from the local office. I recall that he said that that meeting was in good faith, that they were talking with -- with the industry players and

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they were trying to discuss issues on distribution of controlled substances. And I -- I think that the conversation was cordial.
We did -- also we did have a PowerPoint presentation that we shared with them at that point as far as who Henry Schein was and what our focus is. You know, we service office-based practitioners, we don't service pharmacies. We -- we tend to be -- we are aimed to be a one-stop shop for office-based practitioners. We service from the pen that they use in their office to the x-ray machine. And, you know, each comments about the controlled substances being a very teeny-tiny piece of our operation.
Well, I mean, and also kind of the relationship that we had with our customers, the mission that we had with our customers, things like that.
Q. And so that interaction was -- was broad-based about your role

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though, as a distributor of controlled substances, correct?
A. Well --
Q. That is, you were there, although you said it was a teeny piece of your business, you were there for the controlled substances and the DEA regulations governing controlled substances, correct?
A. Yes, that is correct.
Q. All right.
Exhibit Number 18 in front of you makes reference to the DEA coming to the HDMA to talk about best practices as it relates to distribution of controlled substances.
Do you recall writing this e-mail?
While you are reading it, for the record I'll just say what it is. It's an e-mail from you to Michael DiBello on Wednesday, February 6, 2008, regarding an HDMA meeting.
Do you either recall writing

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this e-mail or the meeting itself?
A. I vaguely, very vaguely recall the meeting.
Q. Okay. Do you remember where this meeting was?
A. All of our meetings in person with HDMA, they -- I think this time, I think that it was -- it was in Washington DC.
Q. Okay. So you wrote to Mike, and you showed him a response that you wrote to Jim. Who -- who is Jim?
A. So Jim Owens was the most responsible person for the verifications team at that point.
Q. Okay. Was he replaced by Shaun Abreu at some point?
A. No. Actually he has been replaced by Bill Brandt.
Q. Okay. So -- so this would be a position underneath Shaun Abreu's -- above Shaun Abreu's position?
A. Yes.
Q. Okay. So you wrote to Jim

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in verifications. You said, "As you know, this was a meeting facilitated by the HDMA to discuss a proposal to the DEA on best practices for distribution of controlled drugs which will be accepted and observed industrywide. The goal is to come up with something that will satisfy the DEA officials to get their buying into that industry is addressing their concerns and no additional actions against the wholesalers is necessary."
Do you remember trying to facilitate or -- or effectuate a meeting with the DEA through the HDMA to try to get an understanding of how much you needed to do to be compliant with DEA regulations on controlled substances?
A. Yeah, I think our -- our goal in participating in all these meetings was to gain a further understanding on what best practices were and to see if we can get any interpretation on what the expectation was from the DEA.

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Obviously the issue for us always was that our business model has been so different than other wholesale distributors. We -- we did service the office-based practitioner. We don't service pharmacies or other distributors.
Q. These recommendations for best practices to the DEA though, they were actually being made by the HDMA in this meeting for industrywide understanding of best practices, correct?
A. That was the goal, to come up with industrywide best practices.
Q. And one of the HDMA, that is the distributor's trade association, recommendations, was to do an on-site visit for all new accounts industrywide for the due diligence requirements, correct, that was one of the HDMA's proposals?
A. That was in this e-mail?
MR. McDONALD: Take a look --
BY MR. MIGLIORI:

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Q. If you look at Item Number 1, I'll read it and then we can talk about it.

Number 1, due diligence on new accounts. "The proposal was that companies will need to perform an on-site review of every new account before they could open -- be open for controlled substances. Obviously, most of the companies represented in the meeting have a different business model than Henry Schein. Most of them service pharmacies and retailers or regionals which don't do much volume.

"We argued that with the amount of new accounts that Henry Schein opens daily, it will be virtually impossible to visit all of them and proposed to have different levels of review for different types of customers with the office-based practitioners being in the low risk end and, therefore, subject to lesser level of review."

Do you recall making that

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argument to the DEA at this HDMA-sponsored meeting?

A. I don't think we were making an argument to the DEA.

Q. I'm trying not to use my words. Your words are, "We argued that the amount of new accounts Henry Schein" -- "accounts Henry Schein Incorporated opens daily, it will be virtually impossible to visit all of them."

A. Yeah. So that was an internal association discussion.

Q. Well, this was a meeting, though, facilitated by the HDMA with the DEA, correct?

MR. McDONALD: Object to the form. Mischaracterizes the document.

BY MR. MIGLIORI:

Q. If I'm wrong --

A. I -- I don't think so.

Q. Okay. So internally you're discussing what a good industrywide

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practice would be among other manufacturers and distributors, other DEA registrants. And you are arguing to the trade group that you're different than most of those because of your type of customer, correct?

A. Yeah. Part of the discussion was understanding, again, different business models, because the focus seemed to be on pharmacists most than anything else.

Q. Do you believe that your customers are low risk for diversion?

A. I believe that most practitioners, the vast majority of them, are trying to do the right thing, they are not somebody that is going to divert drugs.

Q. My question is, based on the wording here, do you believe that you had a different or a lower standard that you had to comply with in terms of your obligations to the DEA because your customers were doctors, veterinarians,

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and dentists?

A. I think the tough process was that, because our customers were practitioners, the volume of what they order is much lower than what a pharmacy will order. And they will order all different type of supplies as opposed to just controlled substances. And you know, as opposed for the distributors, that they ship maybe even pallet size of shipments, our shipments are several, but one or two pieces of -- of the product.

Q. Between 2006 and 2014, Henry Schein distributed more than 1.2 million doses of opioids into the state of Ohio. Do you believe that because your customers were practitioners primarily, that you had a lower or lesser obligation to prevent diversion than other distributors?

MR. McDONALD: Object to the form.

THE WITNESS: No. We never said that we had a lesser

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obligation.
Our point was that our business model was different and that we couldn't treat our customers as pharmacists.
BY MR. MIGLIORI:
Q. And ultimately -- well, the next recommendation for best practices at this meeting in 2008, in February of 2008, was holding of orders over the threshold. "The HDMA is proposing that when an order pends for review, it should be held until the investigations of the account is completed. This should not be an issue most of the time, but in some cases the investigation might take some time and may create issues with the customer."
Did you have a problem with the industry wanting to hold all pended orders?
A. Not at all. That was our -- our common practice. I think I was highlighting that issue because Jim

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Mullins was also the head of customer service. So he's always concerned with the customer experience.
Q. "The position of the HDMA accepted by the members that any proposal to the DEA needs to be a substantial change to current practices and that it will represent additional cost and resources."
Did Henry Schein sign onto that? Was that accepted by Henry Schein?
MR. McDONALD: Object to the form.
THE WITNESS: Henry Schein has implemented significant enhancements to processes, procedures, policies, systems.
BY MR. MIGLIORI:
Q. Okay. At the end of that year, as part of the HDMA, there was in fact a guidance issued for the distribution of controlled substances, correct?
A. I don't remember.

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(Document marked for identification as Exhibit Henry Schein-Tejeda-19.)
BY MR. MIGLIORI:
Q. Let me show you Exhibit 19. Exhibit 19 is the HDMA industry compliance guidelines, reporting suspicious orders and preventing diversion of controlled substances.
Do you recall this guidance being reported out that same year that you had this meeting in the prior exhibit?
A. I'm sorry. I couldn't tell you the actual timing of this document.
Q. I can tell you. It's November 13th of 2008.
A. Okay.
Q. Okay. So you had a meeting in February of 2008 that you reported to Jim and to Michael DiBello. And then later that year, this guidance came out.
Do you recall participating in either the preparation of or the

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ratification of this guidance, you yourself?
A. Yes.
Q. Okay. And was there a point at which this was passed around and each company had to acknowledge or approve the guidance or vote?
A. I don't remember formal vote. I think it was more a process of several meetings, discussions, and then coming up with a couple of drafts or several drafts, and then coming up to the final document.
Q. Okay. And did Henry Schein sign on to this final document? Did it approve of this document?
A. I think Henry Schein made a commitment to do as much as we can to comply with this document.
Q. Okay. So to the best of your recollection, there was nothing that Henry Schein objected to in this document as you sit here today?
MR. McDONALD: Object to the

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form.
Go ahead.
BY MR. MIGLIORI:
Q. Go ahead.
A. So again, the distribution industry is very complex and there is no one way to look at all the participants the same way that one formula will fit all. So it might have been parts of the document that we didn't find were relevant or we couldn't implement.
Q. Okay. But in that sense, it's a guidance. It's not a --
A. It's a guidance.
Q. And so depending on your company, you adapted to what would be best and appropriate for your company, correct?
A. Yeah, I think that was.
Q. So as far as Henry Schein was concerned in 2008 when this was issued, this was acceptable to Henry Schein as a guidance with all of those limitations that you've stated, correct?

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A. I think so.
Q. Yes?
A. Yes.
Q. One of the statements here on the front page is, "At the center of the sophisticated supply chain, distributors are uniquely situated to perform the due diligence in order to help support the security of the controlled substances they deliver to their customers."
Did you agree with that statement, that the distributors are uniquely situated to perform due diligence to support the security of controlled substances?
A. I don't remember discussing that statement.
Q. As you sit here today, does that statement sound like a reasonable statement that you would agree to?
A. We are in a situation to perform due diligence, yes.
Q. Okay. And because Henry

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Schein actually does not have a pharmacy between it and the practitioner, would you say that Henry Schein has a particularly unique opportunity to understand its customer because of the direct relationship with the prescriber that it has?
A. We do have a close relationship with our customers, yes.
Q. And you have a particularly unique positioning to perform the due diligence because of your direct relationship with those practitioners, correct?
MR. McDONALD: Object to the form.
THE WITNESS: Yes, and it has to do with also understanding the level of due diligence based on the review of each account.
BY MR. MIGLIORI:
Q. Correct. And if you turn to Page 4 of 15 in the guidance, there's a whole section here on knowing your

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customer and due diligence. And it goes through the different types of data that should be collected.
Do you recall being part of the process of coming up with these guidances on knowing your customer?
A. I remember the conversation in general, I mean.
Q. It talks about doing the background questionnaires and asking for certain types of information for new clients, right?
A. Right.
Q. And it -- it talks about, on the next page, the types of prescribing expectations and the -- particularly, "Identification of physicians in other treatment centers that are potential customers' most frequent prescribers or highest purchasing doctors."
Do you recall that being a guidance that you all thought appropriate?
A. I'm sorry. Could you point

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to me where --
Q. Sure. The very last bullet point on Page 2. "Identification of physicians and other treatment centers that are the potential customers' most frequent prescribers or highest purchasing doctors."
Did you think that was a reasonable guidance in the onboarding of new customers and the ongoing "know your customer" obligations, to keep track of the most frequent and highest purchasing doctors are?
A. Again --
MR. McDONALD: Object to the form.
Go ahead.
THE WITNESS: This is one of the things that probably didn't fit in our world, because we -- we don't sell to pharmacies. So the companies that were selling to pharmacies, they were looking at prescriber information. We were

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really looking more at administration during the course of practice.
BY MR. MIGLIORI:
Q. So as a company that sells directly to the physicians and the veterinarians and the dentists, you didn't have as a component part of your due diligence and know your customer a sensitivity to who the highest purchasing doctors were, or most frequent purchasing doctors were?
A. Purchasing doctors from Henry Schein, we did, yes.
Q. And that's what it says here, highest purchasing doctors.
That's a reasonable thing to have in the guidance, right, a sensitivity in your "know your customer" obligations to the highest purchasing doctors?
A. Yes, highest purchasing doctors, absolutely. Yes, we did.
Q. So in a community like Ohio

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or Summit County, understanding who the highest prescribers are would be a reasonable thing to do in terms of knowing your customer and satisfying your due diligence obligations, correct?
MR. McDONALD: Object to the form.
THE WITNESS: So our suspicious order monitoring system is based on two different sides. So the way we look at our customers is based on the market, meaning medical, dental, or vet, and then their specialty.
Then at some point it was the practice type, then it changed to the practice size.
So we don't specifically look at Ohio customer or Alaska customer. We look at medical doctors within this specialty within this practice type within this practice size, and we group them.

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The other piece, another part of the SOM is to look at the account purchasing behavior itself.
BY MR. MIGLIORI:
Q. So in Henry Schein's suspicious order monitoring system, it never factored in the demographics of the community where the pills were going?
A. We did, and we have done that more on a ad hoc basis that when we are notified or we learn that there is specific trend of something being used in a specific part of the country, then, yes, we do add to our system either a combination of drugs or geographic location that may be an issue with a specific drug.
Q. And in fact, after Dendrite initially consulted with you, it was pointed out that it was necessary for Schein to develop a system to monitor frequency and pattern in order to comply with DEA expectations, correct?

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MR. McDONALD: Object to the form.
THE WITNESS: So we enhanced our computer system to include those elements. Previous to that enhancement we relied on our DSMs that have close contact with the customers and they get to learn -- to know them to, you know, identify or try to identify any potential issues with any orders.
BY MR. MIGLIORI:
Q. Did that transition happen around 2009 with the implementation of the enhanced SOM system?
A. The enhanced SOM system was implemented in 2009. Our sales personnel, our customer service personnel, our telesales personnel, they always -- they keep being, like, an additional resource to identify any potential issues.
Q. But when Henry Schein was only monitoring for size of orders, and

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not yet frequency or pattern before 2009, Henry Schein was relying on the sales representatives to identify issues of deviation in frequency and pattern. Is that a fair statement?
MR. McDONALD: Hold on. Object to the form. Go ahead.
THE WITNESS: Not only on the sales personnel, on the personnel that will have contact with the customers.
BY MR. MIGLIORI:
Q. Who else would that be, besides the sales rep?
A. Customer service.
Q. Okay.
A. So.
Q. Customer service is a phone call, correct?
A. Well, customer service could be one phone call. It could be a dedicated customer service to an account.
Q. And they work in concert with the sales representatives, correct?

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A. No. Not necessarily. They are -- so telesales would be different from field sales and will be different from customer service and will be different from customer support.
Q. Okay. And so prior to 2009, the suspicious order monitoring system at Henry Schein relied on the customer service and sales force to identify and bring attention to deviations in frequency and pattern, and afterwards when the suspicious order monitoring system picked up frequency and pattern, those sales force and customer service representatives continued to service or continued to monitor?
A. They always have.
Q. All right. So prior to 2009, deviations in frequency of pattern -- strike that.
Prior to 2009, deviations for frequency and pattern were primarily detected through the sales force and customer service representatives,

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correct?
A. Yes, sir.
Q. After 2009 and after Buzzeo made recommendations to changing the actual suspicious order monitoring system, there was a computer or an automated algorithm for picking up variations in -- variations or deviations in frequency and pattern, correct?
A. Yes.
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. The document in front of you, the HDMA document, Number 19, the -- references that it's a best practice, good guidance for distributors to identify physicians in other treatment centers of highest purchasing doctors. As of 2008, was that something that you agreed was a good best practice?
A. You're pointing to the last paragraph, right?
Q. This one here, yeah.

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A. Okay. (Reading to himself quietly.)
Yeah, as far as the data from our customers, yes.
Q. Other people have talked about this document, so I won't go through all of it. I just want to ask you about Page 11, a section called "Documentation."
I want to ask you if you agree whether or not this was also in 2008 best practices for distributors. Under documentation, it says, "All investigations should be fully documented, and all records of investigation should be retained in an appropriate location within the firm, such as with other records relating to the particular customer."
As of 2008, did you appreciate that as a best practice for distributors of controlled substances?
A. Let me ask a clarification question right here.

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So the way I am reading this is all investigations conducted by the company should be fully documented. If that's the question, yes.
Q. Okay. It says -- again, the HDMA guidance says, "At a minimum, documentation should include the names, titles and other relevant identification of the representative of the customer contacted. For example, the pharmacist in charge, the dates of contact and a full description of the questions asked and the requests for information made by the distributor and of information provided to the customer."
Would you agree as of 2008 that part of the "know your customer" due diligence investigation, best practice would be to document those types of details about the investigation at a minimum?
MR. McDONALD: Object to the form.
THE WITNESS: So if we did

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an outbound call or conducted a due diligence site visit to an account, yes, absolutely.
When the customer provided information from us, the customer will provide us that information.
BY MR. MIGLIORI:
Q. Okay. So if an order is pended and it required interaction with the customer, you would agree that these -- this type of information, who you spoke with, and when, and what issues were discussed, those are all issues that would be appropriate to document in the file?
A. Yes.
Q. And preferably in a place where the other records relating to that customer would be, correct?
A. Correct.
Q. "The document should include a clear statement of the final conclusion of the investigation, including why the order investigated was or was not

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determined to be suspicious."
Did Henry Schein maintain a decision tree of questionable orders that were -- are ultimately deemed or not deemed to be suspicious?
MR. McDONALD: Object to the form.
THE WITNESS: So Henry Schein have SOPs as guidance documents. We have obtained information from the DEA from our consultants. And most recently document some of those areas as far as to be a reference to ensure consistency. And we do document our review in a -- what we call a due diligence report.
BY MR. MIGLIORI:
Q. Okay. And when did those reports start? When did you implement that SOP?
A. I want to say 2008.
Q. 2008?
A. Mm-hmm.

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Q. So every pended order that had a decision, it was a standard operating procedure as of 2008 for every cleared or canceled pended order, that there would be a statement in the due diligence file about who was contacted, what was discussed, and what the -- a clear statement of the final conclusion of the investigation, that should be in every pended order investigation based on the standard operating procedures of Henry Schein from 2008 to present?

A. That should be in the account file if we conducted due diligence on that account.

Q. Failure for that to be in an account would be a violation of the standard operating procedures at Henry Schein from 2008 to present, correct?

MR. McDONALD: Object to the form.

THE WITNESS: If somebody was conducting due diligence and didn't document it correctly,

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yeah, it was either a mistake or...

BY MR. MIGLIORI:

Q. It violated the companies standard operating procedures, correct?

A. Right.

Q. And it would be inconsistent with the HDMA guidance of 2008 based on this paragraph, correct?

A. Correct.

Q. And this also says that that statement should be signed and dated by the reviewer.

Does Henry Schein require in its standard operating procedures as of 2008 a signed statement of its investigation of suspicious orders by the reviewer?

MR. McDONALD: Object to the form.

THE WITNESS: I believe so.

BY MR. MIGLIORI:

Q. Failure to sign a statement about that would be a violation of Henry

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Schein's standard operating procedures for -- for investigation of suspicious orders as of 2008 to present, correct?

MR. McDONALD: Object to the form.

THE WITNESS: I mean as far as process, yes.

BY MR. MIGLIORI:

Q. I've got two more documents and then we'll be done.

(Document marked for identification as Exhibit Henry Schein-Tejeda-20.)

BY MR. MIGLIORI:

Q. Did Ken Romeo work for you?

A. Yes.

Q. Do you recall Ken Romeo in 2013 writing to you about the Melville audit by a company called PCG?

A. I'm trying to remember who PCG was.

Q. You don't recall the -- the Melville audit?

A. Well, it's been so long,

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I -- a lot of things have happened, so...

Q. Sure.

A. I cannot tell you I can.

Q. Do you remember Ken Romeo referring to you as "Padrino"?

A. Yes.

Q. Is that a nickname he came up with?

A. Yes. He was a character.

Q. And he called Tina Steffanie-Oak "Giovani Padrino"?

A. That one I didn't -- I don't think she -- he used that often.

Q. He called himself Dr. Fredo at the end of this. Did you see that?

A. Dr. Fredo?

Q. Yeah. He signs it, "Thanks, Dr. Fredo."

A. Oh yeah.

Q. What was Ken -- Ken Romeo had a medical degree, correct?

A. Yes, sir.

Q. In fact, he was the only medical doctor within the regulatory or

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verifications department from the time he was hired even to date, correct?
A. Yes, sir.
Q. And it was sometimes observed that his knowledge of medicine was useful and indicated to make some judgment calls about whether to deem a pended order suspicious, correct?
A. Yeah, we thought it was a good idea to get somebody with that background to help us grow our system, to -- to help us build up our process, bring a different perspective to how we look at the accounts and our reviews.
Q. And the Cegedim consultants actually said that one of the concerns about verifications doing so many of the clearing of shipments for pended orders, was the lack of medical training, do you recall that?
A. Not exactly.
Q. You don't remember any -- I'm hoping I don't have to pull this out. You don't remember any audits in 2013 of

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Cegedim saying that the verifications team does not have any medical training, and it would be beneficial to give them more medical training because of the amount of work that they do on reviewing pended orders?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. You don't remember anything like that?
MR. McDONALD: Object to form.
THE WITNESS: So I do remember that we always wanted to -- for somebody to do -- to look at our system, to look at our processes as far as the -- do audits on what we are doing to make sure that we understood and if there were -- if there were any opportunities, we -- we work on that.
As far as the specific one

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that you're referring, I'm sorry, I don't remember.
BY MR. MIGLIORI:
Q. I've got plenty of other people that talk about it. But did you consider Ken Romeo to be a good employee?
MR. McDONALD: Object to the form.
THE WITNESS: I did consider Ken Romeo to have very good background knowledge and to bring a lot to the table. He did have a little bit of personality issues.
BY MR. MIGLIORI:
Q. And Tina Steffanie-Oak addressed those directly with you, in some of her e-mails, correct?
A. I believe so. Yes.
Q. But from a DEA compliance standpoint, he was a good employee?
A. From the process and how to do reviews, he was a good employee. Also conducting training for departments like verifications, for other members of

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regulatory, to give that added perspective.
Q. And he -- but he worked under you, he worked in your department, in regulatory affairs, correct?
A. He reported to Tina, who reported to me.
Q. Okay. Here, in November of 2013, he talks to you about this audit from PCG. And he says, "It is my opinion that the prior DEA SOM," or suspicious order monitoring, "compliance audit conducted of our internal systems and controls by PCG failed to produce audit results that were meaningful or useful to Schein by any definition of the words."
Do you recall him expressing that concern?
A. Not really. I'm sorry.
Q. He says, "I do not know the history of the Buzzeo audit and know even less about how the initial thresholds were calculated, but it had to have been done by somebody with a medical

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background. The PCG audit potentially failed to consider," and then he lists several factors.

First factor is, "Inherent audit risk, identifying controlled substances and/or specific combination of controlled substances that place us in a high risk category as a distributor. An analysis of our top 50 accounts that is not statistically based to allow for both confidence level and confidence interval outside of a single drug class or account is ludicrous. Our attorneys will not have a counterargument to DEA."

Did you agree with Ken Romeo's observation that there needed to be that type of analysis of the top 50 accounts?

A. I'm sorry. I'm not even understanding at that point.

But I can tell you that we did do an analysis based on priorities, and one of the priorities was the top purchasers.

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Q. Okay. And by top purchasers, you mean volumewise, correct?

A. And volumewise, yes.

Q. And when you measured that, did you do that by dosage units? Did you do it by MME? Do you recall how you -- how you determined the top users, whether it be top 50 or some other number?

A. So it was done based on active ingredient volume.

Q. Okay. Is that still how you do it today?

A. Yes. We do conduct -- our current program, although we have complete due diligence file for everybody, we do conduct reviews of specific segments, like we run Virginia customers, for example. We identify the top purchasers in Virginia for specific products. It could be testosterone. It could be hydrocodone. It could be something else. But that's -- yeah, that's the type of product review that we do at this point.

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Q. Okay. So you can pick a state and, by ingredient, active ingredient, identify the top volume purchasers?

A. Yes.

Q. And how long have you been doing that process?

A. I believe we started that in 2017.

Q. Okay. Do you do that state by state now?

A. We do that state by state.

Q. And who analyzes it? Who is responsible for that analysis?

A. It is a collaboration between verifications and regulatory.

Q. Number 3 it says, "Computer system errors, coding and regulatory linkage to verifications. I get acid reflux when I observe this. Here is a small technical issue. Pending site visits do not appear in the Henry Schein notes in verifications. Can someone explain this disconnect?"

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Do you recall him expressing his concern that the communication and interface between the verifications system and the regulatory affairs system was problematic?

A. Not exactly. But I'm getting the feeling that this was when he was fairly new and didn't have a full understanding.

Q. Did you have a recollection of Buzzeo or Cegedim actually expressing that one of its observations about Henry Schein was that there was no clear delineation between the responsibilities of the verification department and the regulatory affairs department, and that's something that needed to be addressed based on Cegedim's review?

A. Vaguely.

Q. Do you know if this was ever addressed? Was the interface between verifications and regulatory affairs improved after 2013 in any meaningful way or memorialized in any SOP that was

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developed?
A. There are SOPs that talk about the responsibilities for verifications and responsibilities for regulatory. And there have been some communications as far as that.
Q. Do you know when those occurred?
A. I think it has been an ongoing process. It has been more than once.
Q. Number 7 says, "DEA hot button, current street trends and/or known drug combinations of interest to DEA. Self-explanatory, and using our top dollar volume accounts, single audit parameter is ridiculous. We need to be able to drill down to the accounts that have real potential to do damage to Schein."
Do you recall him expressing this concern about this methodology?
A. Not really.
Q. The last one, "Medical

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scientific data known to DEA on global basis and areas of enforcement that have never been looked at by Schein. Self-explanatory."
Do you recall him making that kind of observation about Henry Schein's suspicious order monitoring system?
A. No, sir. I'm sorry.
Q. So he goes on, on the last page, to say that he's done a revised audit format that he's proposing, and he's attached the letter that he sent to Shaun. And he says, "To be honest, guys, I have no idea what the heck I'm going to find. But it's better if I find it and then discuss it with you so that changes could be made to our SOM system in the future rather than DEA showing up with five investigators trying to pop holes in us."
Do you recall him expressing a desire to institute a new audit format in 2013?

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A. Well, the other -- the audit format has been revised a couple of times. Again, I don't remember the specific. But we do look for room for improvement on our questionnaires or in our audit formats and our audit checklists for distribution centers or other facilities.
Q. Do you know if you made any specific changes as a result of this particular observation or letter or e-mail from Ken Romeo?
A. I cannot tell you specific to this document, but I can tell you that working with Ken, we did get to some opportunities, and we worked on improvements to our process.
Q. He writes -- he attaches his letter, and on the bottom he asks very specific information.
And I'm assuming, when he says Hi US, that this is his letter to Shaun Abreu that he references, that says, "Along with the U, I'll need three

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other pieces of data: Total sales for each drug in the U, sales by dollar volume of controlled product for each account, and sales as a percentage of business with Schein. Ha-ha, I know you get the last two."
Is that a metric or an algorithm that you regularly ran, those total sales, sales by dollar volume, and percentage of business?
A. We have used the sales by dollar value and percentage of business. We have used as sales by active ingredient volume and percentage of total sales. These are tools that we have used.
Q. As a result of this proposed format, was a new audit ever done to your knowledge of Melville? Did he ever issue a report using his proposal?
A. He did do -- I think he did an audit in -- of Melville. And then the subsequent year Tina did an audit of the program as well. And as well, as you

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know, we also hire outside consultants to do an audit for our program as well.
Q. Do you recall though a specific publication of -- of an audit performed by Ken Romeo?
A. The report?
Q. Yeah. For -- well, that he was speaking of there, do you recall a -- a report that issued, that he -- did he do an audit of his own based on the proposal he had made?
A. So, yeah, for -- on any internal audit that we do, we do issue a report.
Q. I'm asking whether you know that there was one done there.
A. Again, I'm trying to answer your question, but I think if you ask me --
Q. If you don't remember --
A. -- the specifics, I -- I don't remember.
Q. I only have this one sheet of paper. I don't have copies of this.

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Let me put it on the screen. I'll mark it and we can get copies afterwards. This is exhibit --
MR. McDONALD: Do you want to take two minutes and make a copy?
MR. MIGLIORI: It's -- I can give it to him. I don't even need to look at it. I'd rather finish actually. If that's all right. You both can look at it.
(Document marked for identification as Exhibit Henry Schein-Tejeda-21.)
BY MR. MIGLIORI:
Q. It's one page of a PowerPoint presentation called "DEA SOM Due Diligence Activity." And it's actually dated October of 2017.
You can take the whole stack, but I'm only going to ask you about the project's Tejeda sheet, which I've marked as Exhibit 21.
A. Okay.

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Q. Are you familiar with that?
A. I'm familiar with the document. This is our monthly report to our management team.
Q. Okay. When did these monthly reports begin, do you recall?
A. In different formats, but I think they had been there since -- since I got supervisor position in regulatory.
Q. Okay. So they go back to 2003, '4, '5, '6?
A. 2002.
Q. And you would have presented this to Mr. Peacock or DiBello?
A. I would have sent it -- again different formats.
Q. Right.
A. I would have sent it to Mike or Jeff, and then they will, you know, summarize everybody's report and send it up the chain.
Q. Okay. Can I put that on the screen just to -- and we can read it together and --

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MR. McDONALD: You said you didn't need it.
MR. MIGLIORI: Well, it's actually recording it, so...
It would be helpful for the folks listening to see it.
BY MR. MIGLIORI:
Q. It says, "The Masters Pharma decision on June 30th, the United States District Court" -- "Circuit Court of Appeals for the District of Columbia decided the Masters Pharmaceuticals versus DEA case."
Do you recall that case?
A. Yes, sir.
Q. And this is a project that you were, I guess, responsible for reporting on?
"The case has direct bearing on wholesale" -- "wholesale distributors and our obligation as DEA registrants to prevent diversion."
That's what you understood this case to be, correct, a case that

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dealt with -- that had a bearing on wholesale distributors' obligations as DEA registrants to prevent diversion?
A. Yes, sir.
Q. "As a result of the Masters decision, distributors must review the way we evaluate and process orders of controlled substances to assure compliance with the new interpretation of articulate" -- "articulated in Masters."
That's what you were now recommending to Henry Schein the company, is that they had to look at how you had been doing things with respect to the shipping of pended orders, correct?
A. That was --
MR. McDONALD: Object to form. Go ahead.
THE WITNESS: I'm sorry.
That was more the reporting of suspicious orders.
BY MR. MIGLIORI:
Q. Well, the reporting in the -- okay. And what's highlighted

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here, it says, "Based on the decision, there is consensus that when a suspicious order monitoring system designed to evaluate orders based on frequency, volume or pattern flags an order, that order is suspicious and must be reported to the DEA."
Is that the takeaway that -- that you were reporting to Henry Schein of the -- of the import of the Masters decision?
A. Yeah, the Masters decision actually clarified that.
Q. Okay. What it clarified was that what you were calling pended orders that whole time, Masters clarified to be, in fact, suspicious orders, correct?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. That was a clarification?
A. Yeah, that was our read of the -- of the opinion from the judge.
Q. So if, in fact, your system

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flagged an order because of a deviation based on frequency, volume, or pattern, that the order, in all caps, is suspicious and must be reported to the DEA at that time, correct?
A. Yes, that's what the -- the judge interpretation was.
Q. It's also what the Controlled Substances Act says, doesn't it?
MR. McDONALD: Object to the form.
THE WITNESS: The Controlled Substances Act?
BY MR. MIGLIORI:
Q. Have you ever read the Controlled Substances Act?
A. Could you help me with what section you are referring to?
Q. I'm referring to the section that says suspicious orders include. Do you recall that section?
A. From the C.F.R.?
Q. Yes.

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A. I remember reading the section.
Q. Okay. Well, I'll help you. I'm not under oath so I get to mark one more document.
A. Okay.
MR. MIGLIORI: Exhibit 22.
(Document marked for identification as Exhibit Henry Schein-Tejeda-22.)
BY MR. MIGLIORI:
Q. This one I can give you a copy of.
This is Exhibit 22. You understand that as the director of regulatory affairs that this is the -- this is one of the governing provisions of the Controlled Substances Act that relates to controlled substances, right?
A. Yes, sir.
Q. It says, "The registrant shall design and operate a system to disclose to the registrant suspicious orders of controlled substances. The

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registrant shall inform the field division of the office of the administration in his area of suspicious orders when discovered bring the registrant.

"Suspicious orders include orders of unusual size, orders deviating substantially from a normal pattern, and orders of unusual frequency."

That's the definition in the C.F.R., correct?

A. Yes, sir.

Q. All right. And Masters, while it says here it's a new interpretation, Masters, as you report here, says that "based on the decision, there is consensus that when a suspicious order monitoring system designed to evaluate orders based on frequency, volume or pattern flags an order that is" -- "that order is suspicious and must be reported to the DEA."

That's no different from the language of the C.F.R., correct?

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MR. McDONALD: Object to the form.

Surely you are not going to argue with him about this at this hour.

MR. MIGLIORI: I'm not arguing. Did I -- did I raise my voice?

MR. McDONALD: Yeah. Come on, Don, ask your question.

MR. MIGLIORI: I did.

MR. McDONALD: Object to the form.

BY MR. MIGLIORI:

Q. Thank you. Now, you can answer it. That's the same language --

A. It is -- it is in your interpretation. It is a new document clarifying what the judge interpreted as what the regulation was saying. Up to this point, even the DEA accepted that what we were doing was compliant.

Q. The DEA has already testified to that in this case. So I

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won't ask you what the DEA thinks or doesn't think. Okay?

A. Well, some letter from the DEA --

Q. There's a process --

MR. McDONALD: Hang on. Let him talk.

BY MR. MIGLIORI:

Q. There's a process for us to talk to the DEA. I'm talking to you. This is my last moment to speak with you before we go to trial, if we go to trial. Okay?

A. Okay.

Q. My question to you is very simple. This decision said that a system that's designed to evaluate orders based on frequency, volume, or pattern that flags an order for a deviation in those, is suspicious, right?

A. And that was in your interpretation.

Q. And when you compare it to the actual language of the statute of the

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C.F.R. like the judge did in the Masters case, you'll agree that the definition of the C.F.R., in the C.F.R., that you as director of regulatory affairs are responsible for at Henry Schein, you'll agree with me at least that the C.F.R. defines a suspicious order as an order of unusual size, deviating substantially from normal pattern and unusual frequency. That's what the C.F.R. says, right?

MR. McDONALD: Object to the form.

THE WITNESS: It defines what the suspicious order is; however, it doesn't define when you need to report it.

BY MR. MIGLIORI:

Q. Okay. It does say, "when discovered by the registrant" in the C.F.R., correct?

A. And we were doing that.

Q. Okay. So it does define when it has to be reported in the C.F.R.,

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and it does define what is a suspicious order in the C.F.R. That's your understanding as director of regulatory affairs at Henry Schein, correct?

MR. McDONALD: Object to the form.

THE WITNESS: And I'm also telling you that based on consultant opinions, based on discussions with DEA, they told us that what we were doing, the practice that we were doing was accepted according to the interpretation at the time. There were even conferences that we attended that the DEA, maybe not the person that you are talking with, had said that there were two accepted different methods to report controlled substance.

And even in this last conference, not to -- not a month ago, the DEA actually came out and said that they don't want to see

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all these letters spit out from our computer systems, but they want to learn when we actually have deemed the order to be suspicious.

MR. MIGLIORI: I'm going to move to strike. Way beyond my question.

BY MR. MIGLIORI:

Q. My question is very simple, and I promise when we're done with this, we're done.

A. Okay.

Q. The C.F.R. has in it a clear statement of when a suspicious order needs to be reported, correct?

MR. McDONALD: Object to the form.

THE WITNESS: When discovered.

BY MR. MIGLIORI:

Q. Correct. So when a suspicious order is discovered, it's your understanding as director of regulatory

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at -- at Henry Schein, that when discovered, a suspicious order needs to be reported to the field office of the DEA. There's no confusion about that, correct?

MR. McDONALD: Object to form.

THE WITNESS: Correct, and we were doing that.

BY MR. MIGLIORI:

Q. Okay. The C.F.R. also says that a suspicious order includes orders of unusual size, deviating substantially from a normal pattern, and orders of unusual frequency. That's in the C.F.R. going back to 1971, correct?

A. I don't know the date, but --

Q. It's right here --

A. -- it is in the C.F.R.

Q. Okay. And that's always been the governing provision in the C.F.R. as long as you've been at Henry Schein, correct?

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A. Correct.

Q. All right. And in the Masters decision, the court concluded that a system that's designed to flag based on volume, frequency or pattern, when it flags an order, that is when the order is deemed suspicious, and therefore, under the C.F.R., it must be reported then, when discovered, to the DEA, correct? That's holding of the case as you understood it and reported to your boss in 2017, correct?

A. Which wasn't clear until that time.

Q. Okay. But it's clear now. As you -- at the time that you wrote this presentation, you understood that to be what was required, correct?

MR. McDONALD: Object to the form.

THE WITNESS: We understood that that was the required coming from the Masters decision, and we were moving to implement it.

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BY MR. MIGLIORI:
Q. All right. And prior to the Masters decision, that is not what Henry Schein was doing, correct? That is, prior to the Masters decision, prior to June 30th of 2017, Henry Schein was not reporting any flagged order that had a deviation of size, frequency, or pattern in the Henry Schein suspicious order monitoring program, they were not reporting it to the DEA's field office, correct?
MR. McDONALD: Object to the form.
THE WITNESS: Prior to Masters decision, we were complying with the regulation -- with the regulation by notifying the DEA, by reporting to the DEA, orders that were deemed suspicious, which were an accepted practice.
BY MR. MIGLIORI:
Q. Not my question. My

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question to you is, prior to the Masters decision in June of 2017, Henry Schein did not deem an order that was a deviation in frequency, volume, or pattern a suspicious order and report it to the DEA when discovered, correct?
MR. McDONALD: Object to the form.
THE WITNESS: We didn't report orders that were flagged by our system until we deem it suspicious.
BY MR. MIGLIORI:
Q. So Henry Schein, prior to the Masters decision would pend an order that was a deviation of frequency, volume, or pattern and not report it to the DEA unless and until it later determined it to be suspicious, correct?
A. Which was what was compliant with the regulation.
Q. No. My question to you, is that correct? Is that what you did?
A. We would pend an order,

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review it. If deemed suspicious, we would report it immediately.
Q. And the Masters Pharmaceutical was doing the same thing, and as a result of this decision, lost its license to distribute controlled substances, correct?
MR. McDONALD: Object to the form.
I don't think he can answer that question.
BY MR. MIGLIORI:
Q. Do you know?
MR. McDONALD: If you know, tell him.
MR. MIGLIORI: He wrote this page here.
THE WITNESS: I don't know what Masters was doing.
BY MR. MIGLIORI:
Q. And you know that the Rannazzisi letters that we talked about earlier specifically said that you cannot rely upon any statements of the DEA as a

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basis for compliance with the requirements of the C.F.R., correct?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. Were you aware of that?
MR. McDONALD: Object to the form.
THE WITNESS: I think he actually said any previous statements.
BY MR. MIGLIORI:
Q. What he says was he's going to reiterate what the rules are, and that he -- you're not able -- I'll show it to you if you'd like. But you're not --
MR. McDONALD: The document -- Don, the document speaks for itself. It says what it says.
MR. MIGLIORI: Well, I want to know what his understanding of the document is.
BY MR. MIGLIORI:

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Q. You understood back in 2007 that it was not appropriate at Henry Schein to rely on a DEA statement that you were in compliance or not in compliance with the DEA's obligations under the Controlled Substances Act, correct, you understood that, didn't you?

MR. McDONALD: Object to the form.

THE WITNESS: I don't know how to answer that question. If we weren't able to go to the DEA to look for guidance and interpret what -- and take what they told us as guidance, then...

BY MR. MIGLIORI:

Q. Do you recall the letters?

A. I do recall --

Q. Do you --

A. -- a letter from 2006 and a letter from 2007.

Q. And do you recall the statement in the letters about whether or not the -- it's -- it's considered

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compliant for you to rely on a statement made by a DEA person about whether your system was appropriate?

MR. McDONALD: Object to the form.

THE WITNESS: I don't recall the specific language in the letters.

(Document marked for identification as Exhibit Henry Schein-Tejeda-23.)

BY MR. MIGLIORI:

Q. Here is the December 27, 2007 letter. You were in regulatory at this date, correct?

A. Yes, sir, I was.

Q. This is Henry Schein's version of this letter. And it's Exhibit Number 23. Henry Schein.

This letter is being sent to every entity in the United States registered with the Drug Enforcement Agency to manufacture or distribute controlled substances. The purpose of

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this letter is to reiterate the responsibilities of controlled substance manufacturers and distributors to inform DEA of suspicious orders in accordance with 21 C.F.R. 1301.74(b). We just looked at that.

It says, "In addition to, and not in lieu of, the general requirement under 21 U.S.C. 823, that manufacturers should maintain effective controls" -- and it goes through the design and operations further.

Do you see that?

A. Give me a minute to read it. Okay.

Q. The regulation clearly indicates that it is the sole responsibility of the registrant to design and operate such a system. Accordingly, DEA does not approve or otherwise endorse any specific system for reporting suspicious orders.

Do you recall that statement?

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A. Yes.

Q. And is that -- was that understood by Henry Schein in December of 2007?

MR. McDONALD: Object to the form.

THE WITNESS: Yeah, that was understood and it was also kind of confusing why they needed to clarify that.

BY MR. MIGLIORI:

Q. Because -- well, we can ask them why they believe they needed to do it.

My question to you is simply, you as a person at this point in regulatory affairs, in a -- a supervising person in regulatory affairs, you understood, at Henry Schein, that the DEA did not and could not approve or otherwise endorse your system for reporting suspicious orders. You understood that, correct?

A. Yeah, we had a couple of

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conversations with consultants and DEA and we came to that conclusion. They didn't want to provide guidance on what can be acceptable.

Q. And you appreciated that as of December 2007?

A. After we have those -- those conversations, a little bit after 2000 -- December 2007.

Q. And as was written directly to you by Joseph Rannazzisi, the deputy assistant administrator of the office of diversion control at DEA, you received this document in 2000 --

A. I didn't personally. It was sent to one of our distribution centers.

Q. And you were aware of this?

A. I received a copy afterwards.

Q. Sometime in this time?

A. Sometime around that.

MR. MIGLIORI: Okay. All right. That's all I have. Thank you very much for your time.

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Actually, wait. This is just housekeeping.

THE WITNESS: Okay.

BY MR. MIGLIORI:

Q. I received a personnel file of yours Monday? Sunday? Friday, a file on Friday and it got uploaded so that I could look at it Sunday night. So --

A. Okay.

Q. -- this is purely housekeeping, because I'm not sure.

But I have an evaluation for you for year-end 2001 through 2004. And then I have an evaluation for you for year-end 2009 through 2017. And I have nothing during the years of the -- from 2005 through 2009.

Did you review any of your own personnel files in preparation for today, and did you see any files related to those years?

A. I did review some of my performance appraisals. I cannot tell you what years I reviewed or if -- what

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was missing.

Q. Well, of interest to me were the years where the Buzzeo suspicious order monitoring program was being implemented -- developed and implemented, and those are the years that are not here. And so, I'm not suggesting anything nefarious, I was just curious if I just missed it because I only got it literally 24 hours ago.

Did you see performance appraisal reports for those years?

A. Absolutely, yes.

Q. All right. So they exist somewhere?

A. Yes.

Q. All right. Well, we'll -- we'll --

MR. McDONALD: Well, hang on.

MR. MIGLIORI: -- we'll look for them and see if I missed them. I didn't see them.

MR. McDONALD: I -- I don't

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think he's saying that he saw them in preparation for the deposition. He's seen them at some point in life.

BY MR. MIGLIORI:

Q. Is that -- is that what you're saying? Is it -- did your counsel remind you that that's what you're saying?

A. Well, that's what I understood your question was.

Q. So in preparation for today, in the 25 hours of preparation, did you see any performance appraisal forms for those years 2005 through 2009?

A. And again, I'm sorry for the misunderstanding --

Q. No.

A. -- but I thought I had answered that question. I did see performance evaluations. I couldn't tell you if it was complete or what years were missing.

Q. You saw them in -- in recent

weeks?
A. Yeah. I saw the -- some of the performance evaluations.
Q. Okay.
MR. MIGLIORI: Well, we'll continue to look. I -- I doubt it's going to raise any issue that I'll need to follow up on. But I just wanted it to be clear or see if you had an explanation to why there would be a gap of five years in your -- in your record.
THE WITNESS: No. No, I'm sorry. Actually I am sure it was a good review, because that's when I was promoted.
MR. MIGLIORI: All of your reviews are -- are very good. And I was just curious.
That's all I have. I appreciate your time.
THE WITNESS: All right, sir. Thank you. I appreciate it.
THE VIDEOGRAPHER: This ends

today's deposition. We're going off the record at 3:48 p.m.
(Excused.)
(Deposition concluded at approximately 3:51 p.m.)

CERTIFICATE

I HEREBY CERTIFY that the witness was duly sworn by me and that the deposition is a true record of the testimony given by the witness.

It was requested before completion of the deposition that the witness, SERGIO TEJEDA, have the opportunity to read and sign the deposition transcript.

MICHELLE L. GRAY,
A Registered Professional Reporter, Certified Shorthand Reporter, Certified Realtime Reporter and Notary Public
Dated: April 5, 2019

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Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.
After doing so, please sign the errata sheet and date it.
You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.
It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

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ACKNOWLEDGMENT OF DEPONENT

I,_____, do hereby certify that I have read the foregoing pages, 1 - 348, and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.

_____
SERGIO TEJEDA DATE

Subscribed and sworn
to before me this
_____ day of _____, 20____.
My commission expires:_____

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Notary Public

LAWYER'S NOTES
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